

Federal Register

Wednesday
November 19, 1980

Highlights

- 76505 Grant Programs—Education** ED invites applicants for new projects under the Program of Research Grants on Organizational Processes in Education; preapplications by 12-11, 4-9, 8-13-80 or 12-10-81 and applications by 12-11-80 or 4-9-81
- 76507 Guaranteed Student Loan Program** ED announces a special allowance at an annual rate of 6½ percent will be paid to holders of eligible loans
- 76534 Community Development Block Grants** HUD revises submission date to 11-3-80 for preapplications for Pittsburgh, Pennsylvania HUD Area Office for the Small Cities Program for Fiscal Year 1981
- 76618 Waste Treatment and Disposal** EPA publishes hazardous waste regulations addressing mining and cement kiln waste exemptions, small quantity generator standards, generator waste accumulation, response to spills and interim status requirements for facilities; effective 11-19-80; comments by 1-19 and 2-17-81 (5 documents) (Part III of this issue)
- 76602 Nuclear Safety** NRC amends regulations to require certain provisions for fire protection in operating nuclear power plants; effective 2-17-81 (Part II of this issue)

CONTINUED INSIDE



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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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- 76519 Environmental Protection** HHS publishes procedures for conducting environmental reviews; effective 11-13-80
- 76431 National Defense** DOE/ERA adopts final regulations for priority supply of crude oil and petroleum products for the Department of Defense; effective 12-19-80
- 76449 Customs Duties and Inspection** Treasury/CS proposes change to customs regulations relating to the examination of merchandise; comments by 1-19-81
- 76450 Taxes** Treasury/IRS proposes regulations relating to foreign tax credit for domestic corporate shareholders of certain foreign corporations; comments by 1-19-81
- 76440 Banking** USDA/FmHA proposes to permit borrowers to establish supervised accounts with savings and loan associations, and credit unions; comments by 1-19-81
- 76436 Freedom of the Press** Justice amends its existing policy with regard to issuance of subpoenas to members of the news media; effective 11-12-80
- 76447 Consumer Protection** CPSC proposes minor modifications to its regulations concerning association with voluntary standards development groups; comments by 1-19-81
- 76438 Government Procurement** GSA finalizes rule to produce a single GSA-wide procurement regulation; effective 12-31-80
- 76638 Administrative Practice and Procedure** USDA/AMS establishes rules governing proceedings on petitions to modify or to be exempted from the Wheat and Wheat Foods Research and Nutrition Education Order; effective 11-19-80 (Part IV of this issue)
- 76565 Sunshine Act Meetings**

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Federal Register

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 911 and 915

[Lime Pack Regulation 9; Avocado Pack Regulation 6]

Limes Grown in Florida, and Avocados Grown in South Florida; Subpart—Pack Regulation, and Subpart—Container and Pack Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes pack requirements for Florida limes and avocados that require containers of limes and avocados to bear a Federal or Federal-State Inspection Service lot stamp number showing that the fruit has been inspected and found to meet applicable regulation requirements issued under these marketing orders. The action is designed to verify inspection and compliance with these requirements, in the interest of producers and consumers.

EFFECTIVE DATE: November 20, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202-447-5975. The Final Impact Statement relative to this final rule is available upon request from the above named individual.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and has been classified "not significant." Notice was published in the October 23, 1980, issue of the *Federal Register* (45 FR 70278) that the Department was considering amending § 911.311 Lime Regulation 9, and § 915.306 Avocado

Regulation 6, under the marketing agreements, as amended, and marketing Orders 911 and 915, each as amended (7 CFR Parts 911 and 915). These agreements and orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). These amendments are based upon recommendations and information submitted by the committees established under these marketing orders, and other available information. In addition, these amendments revise references in these regulations to the U.S. grade standards for Florida limes and avocados to reflect recent changes in such standards. The notice provided that all written comments be submitted by November 7, 1980. None were received.

After consideration of all relevant matter presented, including the proposals in the notice and other available information, it is found that the amendments are in accordance with the provisions of these marketing agreements and orders, that they are necessary to establish and maintain orderly marketing conditions, and they will tend to effectuate the declared policy of the act in the interests of growers and consumers.

It is further found that good cause exists for not postponing the effective date of these amendments until 30 days after publication in the *Federal Register* (5 U.S.C. 553) in that (1) notice of proposed rulemaking concerning these amendments, with an effective date of November 17, 1980, was published in the *Federal Register*, and no objection to these amendments or their effective date was received; (2) the recommendations for these amendments were developed at public meetings at which interested persons were afforded an opportunity to submit their views; (3) the amendments will not require any special preparation on the part of the persons subject to the regulatory requirements which cannot be completed by the effective time; (4) shipment of the 1980-81 season Florida lime and avocado crops is underway; and (5) the regulatory provisions for Florida limes and avocados are the same as those proposed in the notice, except that the effective date has been extended to November 20, 1980.

1. Therefore, § 911.311 of Subpart-Pack Regulation is amended by revising paragraph (a)(1), amending paragraph

(a)(2), revising and redesignating paragraph (a)(3) as paragraph (a)(4), adding a new paragraph (a)(3), and revising paragraph (b) to read as follows:

§ 911.311 Lime Pack Regulation 9.

(a) *Order.* (1) The grades set forth in the U.S. Standards for Grades of Persian (Tahiti) Limes (7 CFR 2851.1000-2851.1016) are hereby established as pack specifications for the grading and packing of limes.

(2) On and after November 20, 1980.

* * *

* * * * *

(3) On and after November 20, 1980, no handler shall handle any container of limes, grown in the production areas, unless such container is marked with a Federal or Federal-State Inspection Service lot stamp number showing that the limes have been inspected in accordance with regulations issued under § 911.45 of the marketing order.

(4) The provisions of paragraphs (a)(2) and (a)(3) of this section shall not apply to individual packages of limes not exceeding 4 pounds, net weight, that are within master containers except that if such packages are individual bags either such bags or the master containers thereof shall be marked or labeled in accordance with the requirements of paragraph (a)(2) of this section and master containers shall be marked or labeled in accordance with the requirements of paragraph (a)(3) of this section.

(b) Terms used in this section shall mean the same as in the marketing order, and terms relating to grade and standard pack shall mean the same as in the U.S. Standards for Grades of Persian (Tahiti) Limes (7 CFR 2851.1000-2851.1016).

2. Therefore, § 915.306 of Subpart-Container and Pack Regulations is amended by revising paragraph (a)(1), amending paragraph (a)(2), revising and redesignating paragraph (a)(3) as paragraph (a)(4), adding a new paragraph (a)(3), and revising paragraph (b) to read as follows:

§ 915.306 Avocado Pack Regulation 6.

(a) *Order.* (1) The grades set forth in the U.S. Standards for Grades of Florida Avocados (7 CFR 2851.3050-2851.3000) are hereby established as pack specifications for the grading and packing of avocados.

(2) On and after November 20, 1980

* * *

(3) On and after November 20, 1980, no handler shall handle any container of avocados, grown in the production areas unless such container is marked with a Federal or Federal-State Inspection Service lot stamp number showing that the avocados have been inspected in accordance with regulations issued under § 915.51 of this marketing order.

(4) The provisions of paragraphs (a)(2) and (a)(3) of this section shall not apply to individual packages of avocados not exceeding 4 pounds, net weight, that are within master containers.

(b) Terms used in this section shall mean the same as in the marketing order, and terms relating to grade and standard pack shall mean the same as in the U.S. Standards for Grades of Florida Avocados (7 CFR 2851.3050-2851.3000).

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: November 17, 1980 to become effective November 20, 1980

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-36288 Filed 11-18-80; 8:45 am]

BILLING CODE 2110-02-M

7 CFR Parts 982 and 999

Commodity Credit Corporation

Filbert Imports and Filberts Grown in Oregon and Washington; Stay of Effective Date of Amendment of Import Regulation and of a Change in Marketing Order Grade and Size Regulation

Correction

In FR Doc. 80-34573 appearing on page 73634 in the issue of Thursday, November 6, 1980, make the following correction:

On page 73635, at the top of the first column, delete the paragraph in small type designated "(d)".

BILLING CODE 1505-01-M

7 CFR Part 1421

[CCC Grain Price Support Regulations, 1980—Crop Sorghum Supplement]

1980—Crop Sorghum Loan and Purchase Program

Correction

In FR Doc. 80-33061 appearing on page 70212 in the issue of Thursday,

October 23, 1980, make the following corrections in the table in § 1421.115(a):

1. Under California, "San Luis Obispo" should have read "San Luis Obispo".

2. Under Texas, the price for Kaufman County should have read "3.94".

BILLING CODE 1505-01-M

7 CFR Part 1421

[CCC Grain Price Support Reg. 1980—Crop Oats Supplement]

Grains and Similarly Handled Commodities; 1980—Crop Oats Loan and Purchase Program

Correction

In FR Doc. 80-33798 appearing on page 72084 in the issue of Friday, October 31, 1980, make the following corrections to the table in § 1421.274(a):

1. Under Illinois, "Livingston" should have read "Livingston".

2. Under Indiana, "Koscinsko" should have read "Kosciusko".

3. Under Montana, "Choputeau" should have read "Chouteau", "Metroleum" should have read "Petroleum", and "Wilbaux" should have read "Wibaux".

4. Under Nebraska, "Ciofax" should have read "Colfax".

5. Under Wisconsin, "Calument" should have read "Calumet", "Landlade" should have read "Langlade", and "Wauahara" should have read "Waushara".

BILLING CODE 1505-01-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 238

Contracts With Transportation Lines; Deletion of Hughes Air West; Addition of Republic Airlines

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This is an amendment to the regulations of the Immigration and Naturalization Service to delete a carrier under its old name and to add the carrier under its new name to the list of transportation lines which have entered into agreement with the Commissioner of Immigration and Naturalization to guarantee the preinspection of their passengers and crews at places outside

the United States. This amendment is necessary because transportation lines which have signed such agreements are published in the Service's regulations.

EFFECTIVE DATE: November 5, 1980.

FOR FURTHER INFORMATION CONTACT:

Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 Eye Street NW., Washington, DC 20536. Telephone: (202) 633-3048.

SUPPLEMENTARY INFORMATION: This amendment to 8 CFR 238.4 is published pursuant to section 552 of Title 5 of the United States Code (80 Stat. 383), as amended by Pub. L. 93-502 (88 Stat. 1561) and the authority contained in section 103 of the Immigration and Nationality Act (8 U.S.C. 1103), 28 CFR 0.105(b) and 8 CFR 2.1. Compliance with the provisions of section 553 of Title 5 of the United States Code as to notice of proposed rulemaking and delayed effective date is unnecessary because the amendment contained in this order deletes a transportation line under its old name and adds the transportation line under its new name to the listing and is editorial in nature.

The Commissioner of the Immigration and Naturalization Service entered into a new agreement effective on November 5, 1980, with Republic Airlines after it changed its name from "Hughes Air West," to guarantee preinspection of its passengers and crew at a place outside of the United States under section 238(b) of the Immigration and Nationality Act and 8 CFR Part 238:

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

PART 238—CONTRACTS WITH TRANSPORTATION LINES

§ 238.4 [Amended]

In § 238.4 *Preinspection outside the United States*, the listing of transportation lines preinspected at Calgary is amended by deleting "Hughes Air West" and adding in alphabetical sequence "Republic Airlines."

* * *

(Secs. 103 and 238(d); (8 U.S.C. 1103 and 1228(b)))

Dated: November 14, 1980.

David Crosland,

Acting Commissioner of Immigration and Naturalization.

[FR Doc. 80-36091 Filed 11-18-80; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF ENERGY**Economic Regulatory Administration****10 CFR Part 221****[Docket No. ERA-R-79-50]****Priority Supply of Crude Oil and Petroleum Products to the Department of Defense Under the Defense Production Act****AGENCY:** Economic Regulatory Administration, DOE.**ACTION:** Final rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) adopts final regulations pursuant to sections 101(a) and 709 of the Defense Production Act of 1950 for priority supply of crude oil and petroleum products to the Department of Defense (DOD).

The regulations permit DOD, whenever necessary or appropriate to promote the national defense, to request ERA to issue a priority rating for crude oil or petroleum product contracts. If ERA determines that issuance of a priority rating is necessary to meet the national defense requirements identified by DOD and that a proposed supplier is capable of delivering the necessary crude oil or petroleum products, ERA would issue a priority rating to DOD complying in whole or in part with the DOD request. When a supplier receives a priority-rated supply order from DOD, it would be required to fill that order regardless of its other supply commitments to non-DOD purchasers. A priority rating also could entitle DOD to a precedence of delivery for its requirements.

The priority procedures in the regulations would be used only for crude oil and petroleum products not subject to allocation controls under the Emergency Petroleum Allocation Act (EPAA). Products subject to EPAA controls would be allocated to DOD under the regulations in Parts 210 and 211 of 10 CFR.

EFFECTIVE DATE: December 19, 1980.**FOR FURTHER INFORMATION CONTACT:**

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SUPPLEMENTARY INFORMATION:

- I. Background and Authority
- II. Discussion of Comments and Major Issues
- III. Section-by-Section Analysis
- IV. Additional Matters

I. Background and Authority

On October 26, 1979, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) issued a notice of proposed rulemaking and public hearing (44 FR 63109, Nov. 2, 1979) to amend Chapter II, Title 10 of the Code of Federal Regulations by adding a new Part 221 setting forth regulations for the priority supply of crude oil and petroleum products to the Department of Defense (DOD) under the Defense Production Act (DPA). Written comments were invited, and a public hearing was held in Washington, D.C. Over 18 written comments were received and eight persons provided oral testimony at the hearing. The written and oral comments have been carefully considered by ERA.

These final regulations are being promulgated pursuant to section 101(a) of the DPA, 50 U.S.C. App. § 2071, which provides in pertinent part as follows:

The President is hereby authorized (1) to require that performance under contracts or orders (other than contracts of employment) which he deems necessary or appropriate to promote the national defense shall take priority over performance under any other contract or order, and, for the purpose of assuring such priority, to require acceptance and performance of such contracts or orders in preference to other contracts or orders by any person he finds to be capable of their performance, and (2) to allocate materials and facilities in such manner, upon such conditions, and to such extent as he shall deem necessary or appropriate to promote the national defense.

This authority, with respect to energy resources, was vested originally in the Department of Interior (DOI) by Executive Order 10480 (18 FR 4939, Aug. 18, 1953), as amended. The DOI implemented section 101(a) of the DPA by adopting regulations for the mandatory priority supply of crude oil and petroleum products. (38 FR 30572, Nov. 6, 1973). Following the establishment of the Department of Energy (DOE), this authority was delegated to the Secretary of Energy by Executive Order 12038 (43 FR 4957, Feb. 7, 1978), which amended Executive Order 10480, and Executive Order 11790 (39 FR 23785, June 27, 1974), and subsequently has been delegated by the Secretary to the Administrator of the Economic Regulatory Administration

(ERA). (See Amendment No. 1 to DOE Delegation Order No. 0204-4.)

Under the DPA, ERA is authorized to issue priority ratings for DOD and other defense-related contracts which would require that a supplier accept such orders and supply the specified quantities and qualities of crude oil and petroleum products. Additionally, ERA can issue directives to particular companies requiring that they provide necessary supplies for national defense needs. Such orders may be issued under DPA authority without the reimposition of mandatory allocation or price regulations under the Emergency Petroleum Allocation Act (Pub. L. 93-159, EPAA). Priority ratings would be used only during periods when DOD was experiencing difficulties in obtaining supplies needed for national defense purposes.

ERA has determined to adopt final regulations to provide procedures by which these priority rated orders can be requested by DOD and issued. This would enable ERA to act expeditiously and consistently to provide DOD with the necessary relief whenever DOD is unable to obtain needed supplies of crude oil or petroleum products for national defense-related activities. In addition, these regulations would further notify potential DOD suppliers of the possibility of mandatory priority supply obligations and the procedures associated therewith.

The regulations would apply to the priority supply to DOD of crude oil, residual fuel oil, refined petroleum products and lubricants. This regulation would not apply to the supply of natural gas or ethane.

II. Discussion of Comments and Major Issues

A. DPA vs. EPAA authority.
Comments were received on the issue of whether the DPA regulations are necessary or appropriate in view of DOE's allocation authority under the EPAA. As we noted in the preamble to the proposed regulations, ERA has authority under the EPAA to allocate products still subject to controls, to reimpose controls under sec. 12(f) of the EPAA on products currently exempt from allocation regulations, to adjust refinery yields to require refiners to produce more of a particular product and under certain circumstances to assign purchasers new suppliers of a particular product. Nonetheless, we believe that there are several reasons why it is appropriate to issue these regulations under the DPA.

The Defense Production Act was enacted in 1950 to ensure the timely production and delivery of materials

necessary for the national defense. The general purposes of the DPA always have been national defense related, and use of DPA section 101(a) authorities is limited expressly to contracts or orders "necessary or appropriate to promote the national defense." The EPAA, on the other hand, provides in section 4(b)(1)(A) that regulations under that Act only need provide "to the maximum extent practicable" for the national defense. Furthermore, national defense is but one of several objectives of the EPAA. It is evident, therefore, that the DPA is more strictly committed to meeting national defense needs than is the EPAA.

Issuing orders and directives to private firms mandating terms of production and delivery constitutes use of extraordinary authority by the Government. The DPA was specifically designed for this purpose. By way of illustration, DPA section 101(a) expressly provides for priority performance of contracts and authority to require acceptance and performance of contracts. Most importantly, section 707 of the DPA expressly provides a defense against damages or penalties so that a supplier will not be subject to claims for damages from its other customers as a result of complying with a priority rated order. Under section 704 of the DPA, the President may even exercise these authorities without adopting regulations. In short, the DPA was designed to remove any impediments to swift delivery of needed materials for the national defense.

The Department of Energy has interpreted the EPAA as authorizing reimposition of controls on a case-by-case basis, thereby enabling DOE, if necessary, to allocate otherwise decontrolled petroleum products to DOD in a manner similar to the DPA. The EPAA authorities, however, were not expressly designed for this purpose, and do not contain the explicit expediting procedures found in the DPA, discussed in the preceding paragraph.

Finally, as was stated in the preamble to our Notice of Proposed Rulemaking on the DPA regulations, it is not our intention to use the DPA for products still subject to EPAA controls, e.g., gasoline. Thus, we do not foresee there being any problem of overlap under the two programs. And, by adopting these rules under the DPA, when the EPAA expires next year, it will not be necessary to adopt new regulations for DOD so long as the DPA remains in effect.

It is our conclusion, in view of our responsibilities under the Defense Production Act and Executive Orders 10480, 11790 and 12038 and the phased

decontrol of crude oil and petroleum products, that the Defense Production Act is the preferable statutory authority for adopting a program to ensure continued supplies of crude oil and petroleum products needed for the national defense.

B. Inclusion of crude oil within the scope of the rule. Most commenters argued that the DPA rule should not include crude oil because DOD has no need for crude oil and no capability to refine the crude oil. ERA believes that although DOD is not a general purchaser of crude oil, a mechanism should be provided to address all of DOD's emergency fuel needs, including a means of providing crude oil to specified refiners for processing. There may be refiners willing to supply products to DOD but for a lack of crude oil to run in the refinery. Crude oil currently is subject to EPAA allocation controls, and it is our intent to use that authority, rather than the DPA, if it is necessary to allocate crude oil for DOD needs. By including crude oil in the DPA regulations at this time, it will eliminate any need in the future to amend these DPA regulations to include crude oil upon expiration of the EPAA.

C. Role of the Federal Emergency Management Agency (FEMA). The proposed regulations provide in §§ 221.31(b) and 221.32(c) for a limited role for FEMA in the priority rating process. FEMA would be notified by DOD when it requested a priority rating from ERA, and ERA and DOD would consult with FEMA where priority ratings would conflict. Some commenters supported an increased oversight role for FEMA, whereas an equal number suggested that greater restriction upon FEMA involvement is more appropriate.

ERA believes that adoption of the regulations as proposed will allow FEMA to exercise sufficient oversight to discharge its general responsibilities under the DPA and relevant Executive Orders. No commenters supported FEMA involvement to the point where it would interfere with the expeditious handling of priority requests by DOD. Sections 221.31(b) and 221.32(c) ensure, however, that FEMA will be apprised of all requests for priority ratings and that it will be able thereafter to monitor the progress of the applications.

D. Need for an exceptions and appeals procedure for the DPA regulations. Six commenters supported the inclusion of an exceptions and appeals mechanism in the DPA regulations, to provide a means for a refiner to be excused from performance under a rated order. There are two reasons why such an exceptions and

appeals procedure is not appropriate in these regulations.

First, the DPA is an extraordinary authority designed to ensure expedited procurement for the national defense. Acceptance and performance of contracts can be mandated (sec. 101(a)), stiff penalties may be imposed for failure to comply with an order (sec. 103) and injunctive provisions are specifically provided for persons who violate the DPA (sec. 706). It therefore would be inconsistent with both the letter and spirit of the DPA to allow for administrative impediments to expedited procurement for the national defense.

The second point is in response to concerns raised by refiners who fear they may receive an order with which they cannot comply. An overriding purpose of the regulations is to provide ERA with the necessary information to identify those refiners which are most capable of meeting DOD's needs. In most circumstances, ERA will not issue an order to a refiner which would suffer a disproportionate burden if it complied. However, all refiners in emergency situations must be prepared to make sacrifices if necessary to protect the national defense.

E. Inclusion of defense contractors and other national defense components. The Department of Defense has strenuously urged the inclusion of defense contractors in the regulations as eligible to apply for priority ratings. The Commerce Department concurred. The two refiners who commented on this issue favored limitation of the regulations to DOD only. As was stated in the preamble to the proposed regulations, the scope of the regulations expressly was limited to crude oil or petroleum products purchased by DOD for its own use or purchases made by DOD on behalf of other agencies of the Federal Government. The final regulations retain this limitation.

To include in the regulations defense contractors and some or all of the other agencies which are included within the definition of national defense, e.g., DOE nuclear programs and the National Aeronautics and Space Administration, would substantially expand the scope of these regulations. Also, the inclusion of all defense contractors likely would generate a large volume of requests for priority assistance which would have to be processed even if they did not merit a priority. The potential volume of such requests could adversely affect our ability to meet national defense priorities. Accordingly, ERA has decided to limit the scope of these regulations to DOD and to issue a separate rulemaking

for defense contractors and other defense entities.

As was noted in the preamble to the notice of proposed rulemaking, ERA does have authority under the DPA to authorize priority ratings for defense contractors. In extraordinary circumstances, even in the absence of additional regulations, DOD may determine that failure to provide crude oil or petroleum products to a particular defense contractor will have a substantial negative impact on the national defense. ERA could invoke the general DPA authorities to assist that contractor notwithstanding the absence of a specific provision in these regulations authorizing ratings for contractors. DOD has procedures for determining contractor energy shortages in its Instruction No. 4170.9 (May 16, 1978), and we assume that DOD will rely upon these or similar procedures for identifying contractors in need of priority assistance. Similarly, other national defense programs may come to ERA for priority assistance where necessary in an emergency.

F. Need for a defined methodology for determining which suppliers receive rated orders. Several commenters expressed the view that the regulations should include standards for distribution of rated orders among refiners so that one group of refiners will not be assigned a disproportionate share of priority orders. ERA does not believe that it would be possible to adopt strict guidelines to ensure equitable distribution of the rated orders among suppliers. Broad discretion is needed under the regulations to afford ERA ample flexibility to deal with DOD emergency requirements. ERA will, to the extent practicable, spread the priority orders as equitably as possible among potential suppliers.

G. Pricing under a priority rated order and other contract provisions. Most of the commenters were in favor of a provision in the regulations to ensure that DOD and ERA would not use the DPA regulations to secure a price advantage for DOD when purchasing petroleum products. This is a matter beyond the scope of these regulations.

It long has been recognized that the DPA cannot be used merely to obtain a better price. If the reason that DOD cannot find a supplier is that it is unable to come to terms on price, DOD will not receive a priority rating. ERA must evaluate under § 221.32 whether DOD's needs can reasonably be satisfied without exercising the authority in the regulations. If DOD is unwilling to pay suppliers a reasonable price for the products and seeks ERA priority assistance, such assistance will be

denied since DOD's needs can be met if it is willing to pay a reasonable price.

The commenters were virtually unanimous in their criticism of DOD procurement procedures and cited DOD's contract terms as one reason why suppliers avoid DOD contracts. The main criticisms were: cumbersome and onerous contracting procedures; drawn out procurement and payment procedures; and specifications requiring segregated storage. It is outside the scope of these regulations for ERA directly to affect DOD's contract procedures. But, for the reasons stated above, ERA will not permit DOD to resort to the DPA simply to cure normal procurement difficulties. If necessary, however, ERA can include in a priority rating or a directive certain terms as to quantity, quality, delivery, etc. Otherwise, except as provided in § 221.35 of the final regulations, DOD and the supplier will have to negotiate contract terms between themselves.

III. Section-by-Section Analysis

The regulations are being adopted as proposed. Therefore, the section-by-section analysis in the proposed regulations, 44 FR 63109, 63110 (Nov. 2, 1979), should be referred to for additional information on the operation and effect of the regulations.

IV. Additional Matters

A. Section 404 of the DOE Act. Pursuant to the requirements of section 404 of the Department of Energy Act, a copy of the proposed rule was sent to the Federal Energy Regulatory Commission (FERC) for review. The FERC determined that this rule would not significantly affect any of its functions.

B. National Environmental Policy Act. It has been determined that this rule does not constitute a "major Federal action significantly affecting the quality of the human environment" within the meaning of the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, and therefore an environmental assessment or an environmental impact statement is not required by NEPA and the applicable DOE regulations for compliance with NEPA.

C. Executive Order 12044. ERA has determined that this rulemaking is not subject to the provisions of Executive Order No. 12044 on Improving Government Regulations (43 FR 12661, March 24, 1978). Section 6 of that Executive Order excepts from the coverage of the Order regulations issued with respect to a military function of the United States and regulations related to Federal Government procurement.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-332, Pub. L. 94-385, Pub. L. 95-70, and Pub. L. 95-91; Energy Policy and Conservation Act, Pub. L. 94-163 as amended, Pub. L. 94-385, and Pub. L. 95-70; Department of Energy Organization Act, Pub. L. 95-91; E. O. 12009, 42 FR 46267; Defense Production Act, Pub. L. 82-774, as amended; E.O. 10480 (18 FR 4939); E.O. 12038 (43 FR 4957); E.O. 11790 (39 FR 23785))

In consideration of the foregoing, Chapter II, Title 10 of the Code of Federal Regulations, is amended by adding a new Part 221 as set forth below.

Issued in Washington, D.C., on November 12, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

Subchapter A of Chapter II, Title 10 of the Code of Federal Regulations is amended to add a new Part 221 as follows:

PART 221—PRIORITY SUPPLY OF CRUDE OIL AND PETROLEUM PRODUCTS TO THE DEPARTMENT OF DEFENSE UNDER THE DEFENSE PRODUCTION ACT

Subpart A—General

Sec.

221.1 Scope.

221.2 Applicability.

Subpart B—Exclusions

221.11 Natural gas and ethane.

Subpart C—Definitions

221.21 Definitions.

Subpart D—Administrative Procedures and Sanctions

221.31 Requests by DOD.

221.32 Evaluation of DOD request.

221.33 Order.

221.34 Effect of order.

221.35 Contractual requirements.

221.36 Records and reports.

221.37 Violations and sanctions.

Authority: Defense Production Act, 50 U.S.C. App. 2061 *et seq.*, E.O. 10480 (18 FR 4939, Aug. 18, 1953) as amended by E.O. 12038 (43 FR 4957, Feb. 7, 1978), and E.O. 11790 (39 FR 23785, June 27, 1974)

Subpart A—General

§ 221.1 Scope.

This Part sets forth the procedures to be utilized by the Economic Regulatory Administration of the Department of Energy and the Department of Defense whenever the priority supply of crude oil and petroleum products is necessary or appropriate to meet national defense needs. The procedures available in this

Part are intended to supplement but not to supplant other regulations of the ERA regarding the allocation of crude oil, residual fuel oil and refined petroleum products.

§ 221.2 Applicability.

This Part applies to the mandatory supply of crude oil, refined petroleum products (including liquefied petroleum gases) and lubricants to the Department of Defense for its own use or for purchases made by the Department of Defense on behalf of other Federal Government agencies.

Subpart B—Exclusions

§ 221.11 Natural gas and ethane.

The supply of natural gas and ethane are excluded from this Part.

Subpart C—Definitions

§ 221.21 Definitions.

For purposes of this Part—

"Directive" means an official action taken by ERA which requires a named person to take an action in accordance with its provisions.

"DOD" means the Department of Defense, including Military Departments and Defense Agencies, acting through either the Secretary of Defense or the designee of the Secretary.

"ERA" means the Economic Regulatory Administration of the Department of Energy.

"National defense" means programs for military and atomic energy production or construction, military assistance to any foreign nation, stockpiling and space, or activities directly related to any of the above.

"Person" means any individual, corporation, partnership, association or any other organized group of persons, and includes any agency of the United States Government or any other government.

"Priority-rated supply order" means any delivery order for crude oil or petroleum products issued by DOD bearing a priority rating issued by ERA under this Part.

"Supplier" means any person other than the DOD which supplies, sells, transfers, or otherwise furnishes (as by consignment) crude oil or petroleum product to any other person.

Subpart D—Administrative Procedures and Sanctions

§ 221.31 Requests by DOD.

(a) When DOD finds that (1) a fuel supply shortage for DOD exists or is anticipated which would have a substantial negative impact on the national defense, and (2) the defense

activity for which fuel is required cannot be postponed until after the fuel supply shortage is likely to terminate, DOD may submit a written request to ERA for the issuance to it of a priority rating for the supply of crude oil and petroleum products.

(b) Not later than the transmittal date of its request to ERA, DOD shall notify the Federal Emergency Management Agency that it has requested a priority rating from ERA.

(c) Requests from DOD shall set forth the following: (1) the quantity and quality of crude oil or petroleum products determined by DOD to be required to meet national defense requirements; (2) the required delivery dates; (3) the defense-related activity and the supply location for which the crude oil or petroleum product is to be delivered; (4) the current or most recent suppliers of the crude oil or petroleum product and the reasons, if known, why the suppliers will not supply the requested crude oil or petroleum product; (5) the degree to which it is feasible for DOD to use an alternate product in lieu of that requested and, if such an alternative product can be used, the efforts which have been made to obtain the alternate product; (6) the period during which the shortage of crude oil or petroleum products is expected to exist; (7) the proposed supply source for the additional crude oil or petroleum products required, which shall, if practicable, be the historical supplier of such crude oil or product to DOD; and (8) certification that DOD has made each of the findings required by paragraph (a).

§ 221.32 Evaluation of DOD request.

(a) Upon receipt of a request from DOD for a priority rating as provided in § 221.31, it shall be reviewed promptly by ERA. The ERA will assess the request in terms of (1) the information provided under § 221.31; (2) whether DOD's national defense needs for crude oil or petroleum products can reasonably be satisfied without exercising the authority specified in this Part; (3) the capability of the proposed supplier to supply the crude oil or petroleum product in the amounts required; (4) the known capabilities of alternative suppliers; (5) the feasibility to DOD of converting to and using a product other than that requested; and (6) any other relevant information.

(b) The ERA promptly shall notify the proposed supplier of DOD's request for a priority rating specified under this Part. The proposed supplier shall have a period specified in the notice, not to exceed fifteen (15) days from the date it is notified of DOD's request, to show

cause in writing why it cannot supply the requested quantity and quality of crude oil or petroleum products. ERA shall consider this information in determining whether to issue the priority rating.

(c) If acceptance by a supplier of a rated order would create a conflict with another rated order of the supplier, it shall include all pertinent information regarding such conflict in its response to the show cause order provided for in subsection (b), and ERA, in consultation with DOD and the Federal Emergency Management Agency shall determine the priorities for meeting all such requirements.

(d) ERA may waive some or all of the requirements of § 221.31 or this section where the Secretary of Defense or his designee certifies, and has so notified the Federal Emergency Management Agency, that a fuel shortage for DOD exists or is imminent and that compliance with such requirements would have a substantial negative impact on the national defense.

§ 221.33 Order.

(a) *Issuance.* If ERA determines that issuance of a priority rating for a crude oil or refined petroleum product is necessary to provide the crude oil or petroleum products needed to meet the national defense requirement established by DOD, it shall issue such a rating to DOD for delivery of specified quantities and quantities of the crude oil or refined petroleum products on or during specified delivery dates or periods. In accordance with the terms of the order, DOD may then place such priority rating on a supply order.

(b) *Compliance.* Each person who receives a priority-rated supply order pursuant to this Part shall supply the specified crude oil or petroleum products to DOD in accordance with the terms of that order.

(c) *ERA directives.* Notwithstanding any other provisions of this Part, where necessary or appropriate to promote the national defense ERA is authorized to issue a directive to a supplier of crude oil or petroleum product requiring delivery of specified quantities and quantities of such crude oil or petroleum products to DOD at or during specified delivery dates or periods.

(d) *Use of ratings by suppliers.* No supplier who receives a priority-rated supply order or directive issued under the authority of this section may use such priority order or directive in order to obtain materials necessary to meet its supply obligations thereunder.

§ 221.34 Effect of order.

Defense against claims for damages.
No person shall be liable for damages or penalties for any act or failure to act resulting directly or indirectly from compliance with any ERA authorized priority-rated supply order or ERA directive issued pursuant to this Part, notwithstanding that such priority-rated supply order or directive thereafter be declared by judicial or other competent authority to be invalid.

§ 221.35 Contractual requirements.

(a) No supplier may discriminate against an order or contract on which a priority rating has been placed under this Part by charging higher prices, by imposing terms and conditions for such orders or contracts different from other generally comparable orders or contracts, or by any other means.

(b) Contracts with priority ratings shall be subject to all applicable laws and regulations which govern the making of such contracts, including those specified in 10 CFR 211.26(e).

§ 221.36 Records and reports.

(a) Each person receiving an order or directive under this Part shall keep for at least two years from the date of full compliance with such order or directive accurate and complete records of crude oil and petroleum product deliveries made in accordance with such order or directive.

(b) All records required to be maintained shall be made available upon request for inspection and audit by duly authorized representatives of the ERA.

§ 221.37 Violations and sanctions.

(a) Any practice that circumvents or contravenes the requirements of this Part or any order or directive issued under this Part is a violation of the regulations provided in this Part.

(b) Criminal Penalties. Any person who willfully performs any act prohibited, or willfully fails to perform any act required by this Part or any order or directive issued under this Part shall be subject to a fine of not more than \$10,000 for each violation or imprisoned for not more than one year for each violation, or both.

(c) Whenever in the judgment of the Administrator of ERA any person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of these regulations, the Administrator may make application to the appropriate court for an order enjoining such acts or

practices, or for an order enforcing compliance with such provision.

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DEPARTMENT OF COMMERCE**International Trade Administration****15 CFR Parts 385 and 399****Correction of Commodity Control List and Related Matters**

AGENCY: Office of Export Administration, International Trade Administration, Commerce.

ACTION: Correction of interim rule.

SUMMARY: This document corrects errors in documents on the Export Administration Regulations and the Commodity Control List (CCL) which appeared in the *Federal Register* of June 25, 1980. The error in Part 385 appeared on page 43145 of *Federal Register* Document 80-18860, and the errors in the CCL appeared on page 43010 of *Federal Register* Document 80-18859. A technical amendment is made to Part 385, and the following entries of the CCL are corrected:

1110A(c); 1206A; 4363B; 2406A; 5406D; 2409A; 1416A; 1418A; 1431A; 4460B; 6460F; 6490F; 6499G; 5510D; 5597B; 4678B; 3709A; 4799B; and 5999B.

DATES: This rule becomes effective on November 19, 1980.

FOR FURTHER INFORMATION CONTACT:

Mr. Archie Andrews, Director, Exporters' Service Staff, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230. Telephone: (202) 377-5247 or 377-4811.

SUPPLEMENTARY INFORMATION: By notice published in the *Federal Register* on June 25, 1980 (45 FR 43010 and 43145) the Department issued a revision in interim form of Part 385 of the Export Administration Regulations as well as a revision in interim form of the Commodity Control List (CCL). This rule amends those revisions by correcting errors made in the amendments to Part 385 and to the CCL entries. Although there is no formal comment period, public comments on these corrections are welcome.

1. The following correction is made in *Federal Register* Document 80-18860, appearing at page 43145 in the issue of June 25, 1980:

The second sentence of § 385.1 is corrected to read as follows:

§ 385.1 Country Group Z; North Korea, Vietnam, Cambodia and Cuba.

* * * * *

Certain exceptions are contained in Parts 371 and 379, and in ECCN's 7599 and 7999 on the Commodity Control List.

2. The following corrections are made in *Federal Register* Document 80-18859, appearing at page 43010 in the issue of June 25, 1980:

Section 399.1 is corrected as follows:

§ 399.1 [Amended]

(a) On pages 43064 and 43069 of the *Federal Register*, Entry Nos. 1110A(c) and 1206A are corrected by inserting code "1," in the "Reason for Control" column preceding code "4" in that column. Footnotes to these entries remain unchanged.

(b) On pages 43078 and 43129, Entry Nos. 4363B and 4678B are corrected by transferring footnote "1" from the "Reason for Control" column to the "Validated License Required" column. The footnote is corrected to read as follows:

¹ A validated license is *not* required for export of these commodities to the countries listed in Supps. No. 2 and No. 3 to Part 373.

(c) On page 43083, Entry No. 6499G is corrected by: (a) deleting "and Afghanistan" from the "Validated License Required" column, and (b) adding a footnote "2" in this same column reading as follows:

² A validated license also is required for export to the Republic of South Africa and Namibia if intended for delivery to or for use by or for military or police entities in these destinations or for use in servicing equipment owned, controlled or used by or for these entities. (See §§ 371.2(c)(11) and 385.4(a)).

(d) On page 43087, Entry No. 5510D is corrected by changing the second word in the "Commodity Description" column from "Sonar" to "Sonar."

(e) On page 43125, Entry No. 5597B is corrected by deleting the words "and identification" from the phrase "fingerprint and identification cameras."

(f) On page 43131, Entry No. 3709A is corrected by deleting footnote "1" in the column entitled "GLV \$Value Limits T & V."

(g) On page 43136 Entry No. 4799B is corrected by changing the "Commodity Description" column to read as follows:

Chemical agents, including tear gas formulations containing 1 percent or less of orthochlorobenzalmalononitrile (CS), or 1 percent or less of chloracetophenone (CN), and smoke bombs; and fingerprint powders, dyes and inks. (Specify by name.) (See § 376.14.)

(h) On page 43080, Entry No. 2406A is corrected by adding a footnote "1a" in the "Unit" column reading as follows:

^{1a} Report vehicles, and engines in number.

(i) On page 43083, Entry No. 6490F is corrected by adding a footnote "2a" in the "Unit" column reading as follows:

* Report tractors in number.

(j) On page 43080, Entry No. 5406D is corrected by adding a footnote "2a" in the "Unit" column reading as follows:

* Report engines in number.

(k) On page 43081, Entry No. 1431A is corrected by adding a footnote "b" in the "Unit" column reading as follows:

* Report engines in number.

(l) On page 43080, Entry No. 2409A is corrected by adding a footnote "4" in the "Unit" column reading as follows:

* Report engines and motors in number.

(m) On page 43081, Entry Nos. 1416A and 1418A are corrected by adding a footnote "a" in the "Unit" column reading as follows:

* Report vessels or vehicles in number.

(n) On page 43138, Entry No. 5999B is corrected by deleting "nonmilitary gas masks designed for protection against tear gas and other chemical agents" and adding a footnote "4" as follows:

* Gas masks designed for protection against tear gas and other chemical agents are controlled by the Office of Munitions Control. See § 370.10.

(o) On page 43082, Entry Nos. 4460B and 6460F are corrected by adding a footnote "a" in the "Unit" column reading as follows:

* Report aircraft, helicopters and engines in number.

3. The Commodity Interpretations incorporated by reference at 15 CFR 399.2 are corrected as follows:

Paragraph (b)(4) of Interpretation 20 is corrected to read as follows:

Interpretation 20: Aircraft, Parts, Accessories and Components

* * * * *

(b) * * *

* * * * *

(4) Airborne communications equipment having any of the following characteristics:

(i) Designed to operate at frequencies greater than 156 MHz,

(ii) Incorporating facilities for (a) the rapid selection of more than 200 channels per equipment, *except equipment operating in frequency range 108-136 MHz with 720 or fewer channels at not less than 25 kHz spacing and which has been in normal civil use for at least one year*, or (b) using frequency synthesis techniques with a speed of switching from one selected output frequency to another selected output frequency less than 10 milliseconds,

* * * * *

(Secs. 5, 6, 7, 13, 15 and 21, Pub. L. 96-72, to be codified at 50 U.S.C. App. 2401 *et seq.*; E. O. 12214 (45 FR 29783, May 6, 1980); Department Organization Order 10-3 (45 FR 6141, January 25, 1980); and International Trade Administration Organization and Function Orders 41-1 (45 FR 11862, February 22, 1980) and 41-4 (effective August 26, 1980))

Dated: November 6, 1980.

Eric L. Hirschhorn,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 80-36118 Filed 11-18-80; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 50

[Order No. 916-80]

Policy With Regard to Issuance of Subpoenas to Members of News Media, Subpoenas for Telephone Toll Records of Members of News Media, and Interrogation, Indictment, or Arrest of, Members of News Media

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This rule amends the existing policy with regard to issuance of subpoenas to members of the news media. The amendment is necessary in order to make the existing policy applicable to subpoenas in civil proceedings and to subpoenas for telephone toll records and for other purposes.

EFFECTIVE DATE: November 12, 1980.

FOR FURTHER INFORMATION CONTACT:

Victor H. Kramer, Counselor to the Attorney General, Office of the Attorney General, Department of Justice, Washington, D.C. 20530, (202) 633-3892.

By virtue of the authority vested in me as Attorney General by 5 U.S.C. 301, and 28 U.S.C. 509, 516 and 519, it is hereby ordered:

1. Section 50.10 of Title 28, Code of Federal Regulations, is revised to read as follows:

§ 50.10 Policy with regard to the issuance of subpoenas to members of the news media, subpoenas for telephone toll records of members of the news media, and the interrogation, indictment, or arrest of, members of the news media.

Because freedom of the press can be no broader than the freedom of reporters to investigate and report the news, the prosecutorial power of the government should not be used in such a way that it impairs a reporter's responsibility to cover as broadly as possible controversial public issues.

This policy statement is thus intended to provide protection for the news media from forms of compulsory process, whether civil or criminal, which might impair the news gathering function. In balancing the concern that the Department of Justice has for the work of the news media and the Department's obligation to the fair administration of justice, the following guidelines shall be adhered to by all members of the Department in all cases:

(a) In determining whether to request issuance of a subpoena to a member of the news media, or for telephone toll records of any member of the news media, the approach in every case must be to strike the proper balance between the public's interest in the free dissemination of ideas and information and the public's interest in effective law enforcement and the fair administration of justice.

(b) All reasonable attempts should be made to obtain information from alternative sources before considering issuing a subpoena to a member of the news media, and similarly all reasonable alternative investigative steps should be taken before considering issuing a subpoena for telephone toll records of any member of the news media.

(c) Negotiations with the media shall be pursued in all cases in which a subpoena to a member of the news media is contemplated. These negotiations should attempt to accommodate the interests of the trial or grand jury with the interests of the media. Where the nature of the investigation permits, the government should make clear what its needs are in a particular case as well as its willingness to respond to particular problems of the media.

(d) Negotiations with the affected member of the news media shall be pursued in all cases in which a subpoena for the telephone toll records of any member of the news media is contemplated where the responsible Assistant Attorney General determines that such negotiations would not pose a substantial threat to the integrity of the investigation in connection with which the records are sought. Such determination shall be reviewed by the Attorney General when considering a subpoena authorized under paragraph (e) of this section.

(e) No subpoena may be issued to any member of the news media or for the telephone toll records of any member of the news media without the express authorization of the Attorney General: *Provided*, That, if a member of the news media with whom negotiations are conducted under paragraph (c) of this

section expressly agrees to provide the material sought, and if that material has already been published or broadcast, the United States Attorney or the responsible Assistant Attorney General, after having been personally satisfied that the requirements of this section have been met, may authorize issuance of the subpoena and shall thereafter submit to the Office of Public Affairs a report detailing the circumstances surrounding the issuance of the subpoena.

(f) In requesting the Attorney General's authorization for a subpoena to a member of the news media, the following principles will apply:

(1) In criminal cases, there should be reasonable grounds to believe, based on information obtained from nonmedia sources, that a crime has occurred, and that the information sought is essential to a successful investigation—particularly with reference to directly establishing guilt or innocence. The subpoena should not be used to obtain peripheral, nonessential, or speculative information.

(2) In civil cases there should be reasonable grounds, based on nonmedia sources, to believe that the information sought is essential to the successful completion of the litigation in a case of substantial importance. The subpoena should not be used to obtain peripheral, nonessential, or speculative information.

(3) The government should have unsuccessfully attempted to obtain the information from alternative nonmedia sources.

(4) The use of subpoenas to members of the news media should, except under exigent circumstances, be limited to the verification of published information and to such surrounding circumstances as relate to the accuracy of the published information.

(5) Even subpoena authorization requests for publicly disclosed information should be treated with care to avoid claims of harassment.

(6) Subpoenas should, wherever possible, be directed at material information regarding a limited subject matter, should cover a reasonably limited period of time, and should avoid requiring production of a large volume of unpublished material. They should give reasonable and timely notice of the demand for documents.

(g) In requesting the Attorney General's authorization for a subpoena for the telephone toll records of members of the news media, the following principles will apply:

(1) There should be reasonable ground to believe that a crime has been committed and that the information sought is essential to the successful

investigation of that crime. The subpoena should be as narrowly drawn as possible; it should be directed at relevant information regarding a limited subject matter and should cover a reasonably limited time period. In addition, prior to seeking the Attorney General's authorization, the government should have pursued all reasonable alternative investigation steps as required by paragraph (b) of this section.

(2) When there have been negotiations with a member of the news media whose telephone toll records are to be subpoenaed, the member shall be given reasonable and timely notice of the determination of the Attorney General to authorize the subpoena and that the government intends to issue it.

(3) When the telephone toll records of a member of the news media have been subpoenaed without the notice provided for in paragraph (e)(2) of this section, notification of the subpoena shall be given the member of the news media as soon thereafter as it is determined that such notification will no longer pose a clear and substantial threat to the integrity of the investigation. In any event, such notification shall occur within 45 days of any return made pursuant to the subpoena, except that the responsible Assistant Attorney General may authorize delay of notification for no more than an additional 45 days.

(4) Any information obtained as a result of a subpoena issued for telephone toll records shall be closely held so as to prevent disclosure of the information to unauthorized persons or for improper purposes.

(h) No member of the Department shall subject a member of the news media to questioning as to any offense which he is suspected of having committed in the course of, or arising out of, the coverage or investigation of a news story, or while engaged in the performance of his official duties as a member of the news media, without the express authority of the Attorney General: *Provided, however,* That where exigent circumstances preclude prior approval, the requirements of paragraph (l) of this section shall be observed.

(i) A member of the Department shall secure the express authority of the Attorney General before a warrant for an arrest is sought, and whenever possible before an arrest not requiring a warrant, of a member of the news media for any offense which he is suspected of having committed in the course of, or arising out of, the coverage or investigation of a news story, or while engaged in the performance of his

official duties as a member of the news media.

(j) No member of the Department shall present information to a grand jury seeking a bill of indictment, or file an information, against a member of the news media for any offense which he is suspected of having committed in the course of, or arising out of, the coverage or investigation of a news story, or while engaged in the performance of his official duties as a member of the news media, without the express authority of the Attorney General.

(k) In requesting the Attorney General's authorization to question, to arrest or to seek an arrest warrant for, or to present information to a grand jury seeking a bill of indictment or to file an information against, a member of the news media for an offense which he is suspected of having committed during the course of, or arising out of, the coverage or investigation of a news story, or committed while engaged in the performance of his official duties as a member of the news media, a member of the Department shall state all facts necessary for determination of the issues by the Attorney General. A copy of the request shall be sent to the Director of Public Affairs.

(l) When an arrest or questioning of a member of the news media is necessary before prior authorization of the Attorney General can be obtained, notification of the arrest or questioning, the circumstances demonstrating that an exception to the requirement of prior authorization existed, and a statement containing the information that would have been given in requesting prior authorization, shall be communicated immediately to the Attorney General and to the Director of Public Affairs.

(m) In light of the intent of this Section to protect freedom of the press, news gathering functions, and news media sources, this policy statement does not apply to demands for purely commercial or financial information unrelated to the news gathering function.

(n) Failure to obtain the prior approval of the Attorney General may constitute grounds for an administrative reprimand or other appropriate disciplinary action. The principles set forth in this section are not intended to create or recognize any legally enforceable right in any person.

2. The section heading for § 50.10 in the table of contents of Part 50 of Chapter I of Title 28, Code of Federal Regulations, is revised to read as follows:

Sec.

50.10 Policy With Regard to the Issuance of Subpoenas to Members of the News

Media, Subpoenas for Telephone Toll Records of Members of the News Media, and the Interrogation, Indictment, or Arrest of, Members of the News Media.
Dated: November 5, 1980.

Benjamin R. Civiletti,
Attorney General.

[FR Doc. 80-36115 Filed 11-18-80; 8:45 am]

BILLING CODE 4410-01-M

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 5-11 and 5A-11

Federal, State, and Local Taxes; Transfer Policies and Procedures

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: The General Services Administration Procurement Regulations, Chapter 5, are amended to transfer policies and procedures regarding Federal, State, and local taxes from Chapter 5A. This transfer is part of the action to incorporate appropriate material in Chapter 5A into Chapter 5. The intended effect is to have a single GSA-wide procurement regulation.

EFFECTIVE DATE: December 31, 1980.

FOR FURTHER INFORMATION CONTACT:

Philip G. Read, Director, Federal Procurement Regulations Directorate, Office of Acquisition Policy (703-557-8947).

CHAPTER 5—GENERAL SERVICES ADMINISTRATION PROCUREMENT REGULATIONS (APD 2800.2 CHGE 7)

1. The Table of Parts is amended by adding the following entry:

TABLE OF PARTS

Part

5-11 Federal, State, and local taxes.

2. The Table of Contents for Part 5-11 is added as follows:

PART 5-11—FEDERAL, STATE, AND LOCAL TAXES

Subpart 5-11.2—Exemptions From Federal Excise Taxes

Sec.

5-11.250 Supplies for export or shipment to a possession.

Subpart 5-11.4—Contract Clauses

5-11.401 Fixed-price type contracts.

5-11.401-50 Federal, State, and local taxes—small purchases.

5-11.401-51 Federal, State, and local taxes—Federal Supply Schedules.

5-11.401-52 Federal excise taxes—D.C. Government.

Subpart 5-11.5—Tax Exemption Forms

5-11.501-1 Certificate of export to a possession or Puerto Rico.

3. Part 5-11 Federal, State, and local taxes is added as follows:

PART 5-11 FEDERAL, STATE, AND LOCAL TAXES

Subpart 5-11.2 Exemptions From Federal Excise Taxes

§ 5-11.250 Supplies for export or shipment to a possession.

(a) Federal excise taxes are not imposed on purchases by the Government (see §§ 1-11.201(b) and 1-11.202(b)) of supplies for export, or for shipment to a possession of the United States, including Puerto Rico, where:

(1) The purchase is substantial;

(2) Exportation or shipment to a possession is intended to follow not more than 6 months after title to the supplies passes to the United States Government; and

(3) The supplies are in fact exported or shipped to a possession in due course.

(b) The term "substantial" in (a)(1), is defined as any transaction where the estimated Federal excise tax exceeds \$200.

(1) *Definite quantity contracts for nonstock items.* When the estimated Federal excise tax exceeds \$200, the clause set forth in § 1-11.401-3(b) shall be included in the solicitation appropriately amended as prescribed.

(2) *Requirements contracts.* (i) When the requirements contract sets forth the Federal excise tax(es) (e.g., in contracts for tires and tubes), the export delivery orders issued under the contract(s) shall exclude the excise tax, and the following statement shall be set forth on the order, "FOR EXPORT OR SHIPMENT TO A POSSESSION".

(ii) When the requirements contract does not expressly set forth the Federal excise tax, the delivery orders issued under the contract(s) may include the Federal excise tax(es), except when it is known or estimated that the Federal excise tax will exceed \$200. In the latter instance, the contracting officer or ordering office, as appropriate, shall determine the amount of the tax, shall exclude this tax and mark the order "FOR EXPORT OR SHIPMENT TO A POSSESSION".

(iii) In compliance with (a)(2), delivery orders for shipment to geographical locations within the United States for export or reshipment to a United States possession (including Puerto Rico), within 6 months from the date the title to supplies passes to the United States Government, shall be processed in the

same manner as set forth in (b)(2) (i) or (ii) above. The requisitioning documents on which the procurement action is based will bear an appropriate statement that the items are destined for export or shipment to a United States possession (including Puerto Rico) within 6 months from the date the title to the supplies to be ordered passes to the Government.

(c) The provisions of paragraphs (a) and (b) of this section do not apply to contracts made on behalf of the Agency for International Development (AID). The current edition of GSA Form 1246, entitled "GSA Supplemental Provisions" (AID Procurement), shall be incorporated by reference in each solicitation for offers under the AID buying program.

Subpart 5-11.4 Contract Clauses

§ 5-11.401 Fixed-price type contracts.

§ 5-11.401-50 Federal, State, and local taxes—small purchases.

The following clause shall be used in consummating small purchases negotiated pursuant to 41 U.S.C. 252(c)(3):

Federal, State, and Local Taxes

The contract price includes all applicable Federal, State, and local taxes. No adjustment will be made to cover taxes which may subsequently be imposed on this transaction or changes in the rates of currently applicable taxes. However, the Government will, upon the request of the Contractor, furnish evidence appropriate to establish exemption from any tax from which the Government is exempt and which was not included in the contract price.

§ 5-11.401-51 Federal, State, and local taxes—Federal Supply Schedules.

The following clause shall be included in all multiple award Federal Supply Schedule solicitations and resultant schedules (including New Item Introductory Schedules):

State and Local Taxes

Notwithstanding the provisions of the clause entitled "Federal, State, and Local Taxes" (see § 1-11.401-1), the contract price excludes all State and local taxes levied on or measured by the contract or sales price of the services or completed supplies furnished under this contract. Taxes excluded from the contract price pursuant to the preceding sentence shall be separately stated on the Contractor's invoices and the Government agrees either to pay to the Contractor amounts covering such taxes or to provide evidence necessary to sustain an exemption therefrom.

§ 5-11.401-52 Federal excise taxes—DC Government.

The clause prescribed below shall be inserted in all formally advertised and negotiated contracts:

Federal Excise Taxes—DC Government

The District of Columbia is exempt from and will not pay Federal excise taxes. Contractors will bill shipments to the District of Columbia at prices exclusive of such excise tax and show the amount of such tax on the invoice. The Internal Revenue Tax Exemption Certificate Number will be shown on all District of Columbia Government purchase orders.

Subpart 5-11.5 Tax Exemption Forms

§ 5-11.501-1 Certificate of export to a possession or Puerto Rico.

Purchase orders for export or shipment to a possession or Puerto Rico are not subject to manufacturers excise taxes (see § 1-11.202) and, in certain cases, retailers excise taxes (see § 1-11.201). When requested by the contractor, proof of export or shipment to a possession or Puerto Rico shall be furnished in the form of a certificate similar to that in § 1-11.501-1. Certificates shall be signed by officials designated in the GSA Delegations of Authority manual, ADM P 5450.39A.

CHAPTER 5A—GENERAL SERVICES ADMINISTRATION PROCUREMENT REGULATIONS [APD 2800.3 CHGE 11]

1. The Table of Parts of GSPR 5A is amended to delete Part 5A-11—FEDERAL, STATE, AND LOCAL TAXES as follows:

Part 5A-11 [Deleted]

PART 5A-11 FEDERAL, STATE, AND LOCAL TAXES [DELETED]

2. Part 5A-11 is deleted in its entirety as set forth above.

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)))

Dated: October 28, 1980.

Gerald McBride,

Assistant Administrator for Acquisition Policy.

[FR Doc. 80-36044 Filed 11-18-80; 8:45 am]

BILLING CODE 6820-34-M

Proposed Rules

Federal Register

Vol. 45, No. 225

Wednesday, November 19, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Part 1902

Supervised Bank Accounts; Loan and Grant Disbursement

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: Farmers Home Administration (FmHA) proposes to revise its regulations to permit borrowers to establish supervised accounts with savings and loan associations, and credit unions. The current regulation provides that supervised accounts be maintained only with banks. This action is needed in order to comply with Treasury Circular 176 to permit deposit of government funds in savings and loan associations, and credit unions. The intended effect of this action is to give borrowers greater opportunity in choosing a financial institution to deposit and disburse loan fund proceeds. The supervised accounts will be used only in rare instances because FmHA field offices can request loan checks on an as needed basis. The proposed regulation also recognizes the increase from \$40,000 to \$100,000 in the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, and the National Credit Union coverage on deposits. Minor editorial changes also are being made.

DATE: Comments must be received on or before January 19, 1981.

ADDRESSES: Submit written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6346, Washington, DC 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT: Mr. Phillip A. Carter, Financial Support Division, Room 4118, South Agriculture

Building, 14th and Independence, SW., Washington, DC 20250. Phone: (202) 447-4871.

The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from Mr. Joseph Linsley, Chief, Directives Management Branch, Room 6346, South Agriculture Building, 14th and Independence, SW., Washington, DC 20250.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant". FmHA proposes to revise Subpart A of Part 1902, Chapter VIII, Title 7, Code of Federal Regulations. This instruction does not directly affect any programs or projects which are subject to A-95 Clearinghouse review. Accordingly, as proposed, Subpart A of Part 1902 is revised to read as follows:

PART 1902—SUPERVISED BANK ACCOUNTS

Subpart A—Loan and Grant Disbursement

Sec.

1902.1 General.

1902.2 Policies concerning disbursement of funds.

1902.3 Procedures to follow in fund disbursement.

1902.4-1902.5 [Reserved]

1902.6 Establishing supervised bank accounts.

1902.7 Pledging collateral for deposit of funds in supervised bank accounts.

1902.8 Authority to establish supervised bank accounts, deposit loan checks and other funds, countersign checks, close accounts, and execute all forms in connection with supervised bank account transactions.

1902.9 Deposits.

1902.10 Withdrawals.

1902.11 District office and county office records.

1902.12-1902.13 [Reserved]

1902.14 Reconciliation of accounts.

1902.15 Closing accounts

1902.16 Request for withdrawals by State Director

1902.17-1902.50 [Reserved]

Exhibit A—Designated Financial Institution—Collateral Pledge Memo.

Exhibit B—Interest-Bearing Deposit Agreement.

Exhibit C—Deposit Agreement.

Exhibit D—Deposit Agreement (Non-FmHA Funds).

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; sec. 10 Pub. L. 93-357, 88 Stat. 392; Title II of the Emergency Agricultural Credit Adjustment Act of 1978, 92 Stat. 429; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70.

Subpart A—Loan and Grant Disbursement

§ 1902.1 General.

This Subpart prescribes the policies and procedures of the Farmers Home Administration (FmHA) for disbursement of funds under the Loan Disbursement System (LDS) and in establishing and using supervised bank accounts. The LDS system provides for disbursement of funds on an as needed basis to substantially reduce interest costs to FmHA borrowers, U.S. Treasury, and FmHA.

(a) The *Form FmHA 1940-1*, "Request for Obligation of Funds," provides for: (1) obligation only, (2) obligation and check request for the full amount of the loan or grant, and (3) obligation and check request for a partial amount of the loan or grant. The instructions on when and how to use this form are contained in the Forms Manual Insert (FMI) for this form.

(b) *Form FmHA 440-57*, "Acknowledgment of obligated Funds/Check Request," provides for: (1) the initial loan amount check, (2) all subsequent loan checks, (3) making corrections on the data in the loan account as reflected on the form, (4) notifying the Finance Office of the loan closing date and the loan amortization effective date, and (5) providing requested information from the Finance Office. The instructions on when and how to use this form are contained in the FMI for this form.

(c) See *FmHA Instructions 102.1* (available in any FmHA office) for procedures to follow if checks are lost or destroyed.

(d) Borrowers as referred to in this Subpart include both loan and grant recipients. They are referred to as depositors in the deposit agreements hereinafter described. References herein and in deposit agreements to "other lenders" include lenders and grantors other than FmHA.

(e) Banks referred to in this Subpart are those in which deposits are insured by the Federal Deposit Insurance Corporation (FDIC).

(f) Savings and Loans referred to in this Subpart are those in which deposits are insured by the Federal Savings and Loan Insurance Corporation (FSLIC).

(g) Credit Unions referred to in this Subpart are those in which deposits are insured by the National Credit Union Administration (NCUA).

(h) Financial Institutions as referred to in this Subpart include banks, savings and loans, and credit unions which are covered by the proper insurance coverage cited in paragraphs (e), (f) and (g) of this section.

(i) Supervised bank accounts referred to in this Subpart are bank, savings and loan, or credit union accounts established through deposit agreements entered into between either (1) the borrower, the United States of America acting through the FmHA, and the bank on Form FmHA 402-1, "Deposit Agreement," or the savings and loan and credit union on "Deposit Agreement (Exhibit C)", or (2) the borrower, FmHA, other lenders, and the bank on Form FmHA 402-5, "Deposit Agreement (Non-FmHA Funds), or the savings and loan and credit union on "Deposit Agreement (Non-FmHA Funds)" (Exhibit D).

(j) Form FmHA 402-1 or Exhibit C provides for the deposit of funds in a supervised bank account as security for payment of the borrower's indebtedness to secure the performance of the borrower's obligation to FmHA in connection with a loan and grant.

(k) Form FmHA 402-5 or Exhibit D will be completed when deposits of funds advanced by other lenders as security for payments of the indebtedness to them and to assure the performance of the borrower's obligation to them in connection with a loan and grant are made in a separate supervised bank account.

(l) "Interest-Bearing Deposit Agreement" (Exhibit B), provides for the deposit of loan or grant funds that are not required for immediate disbursement in specified interest-bearing deposits, and it is executed in conjunction with Form FmHA 402-1 or Form FmHA 402-5.

§ 1902.2 Policies concerning disbursement of funds.

(a) The partial advance feature of the LDS will be utilized whenever possible in accordance with the specific program procedures, except where prohibited by State statutes. The capability to request Treasury checks on an as needed basis reduces the need for supervised bank accounts. *Therefore, supervised bank accounts will be used only in rare instances, e.g.:*

(1) When a construction loan is made and the construction is substantially

completed, but a small amount is being withheld pending completion of landscaping or some similar item, or a small loan closing. In this case, the amount of funds not disbursed when the predetermined amortization effective date occurs may be placed in a supervised bank account for future disbursement as appropriate.

(2) When a large number of checks will be issued in the construction of a dwelling or other development, as for example under the "borrower method" of construction or in Operating (OL) loans and Emergency (EM) loans. In such cases, installment checks will continue to be requested from the Finance Office as necessary and deposited in a supervised bank account and disbursed to suppliers, sub-contractors, etc. as necessary. When the construction process requires several checks to be issued at one time the LDS system can still be utilized. Those District and County Offices authorized to request checks by telephone may request more than one check at a time. If more than one check is required, a Form FmHA 440-57 will be prepared for each check.

(3) Supervised bank accounts will be used only when necessary to assure the correct expenditures of all or a part of loan and grant funds, borrower contributions, and borrower income. Such accounts will be limited in amount and duration to the extent feasible through the prudent disbursement of funds and the prompt termination of the interests of FmHA and other lenders when the accounts are no longer required.

(4) Income from the sale of security property of Economic Opportunity (EO) property or the proceeds from insurance on such property will be deposited in a supervised bank account under Form FmHA 402-1 or Exhibit C when the District Director or County Supervisor determines it is necessary to do so to assure that the funds will be available for replacement of the property.

(5) When a borrower has a clearly demonstrated inability to handle financial affairs, all or part of the income or other funds may be deposited in the supervised bank account under the appropriate Deposit Agreement if the District Director or County Supervisor determines that such an arrangement is necessary to provide guidance in major financial management practices essential to the borrower's success, subject to the following requirements:

(i) This supervisory technique will be used for a temporary period to help the borrower learn to properly manage financial affairs. Such a period will not

exceed one year unless extended by the District Director; and

(ii) The borrower is agreeable to such an arrangement.

(6) In exceptional cases when the unincorporated EO cooperative or grazing association borrower cannot obtain a position fidelity bond, its income may be deposited as provided for in § 1902.6 (and § 1902.2(f) of this Subpart if another lender is involved).

(b) For all construction loans, and those loans to be advanced in increments, only the actual amount to be disbursed at loan closing will be requested either through the initial submission of Form FmHA 1940-1 or through Form FmHA 440-57. Subsequent checks will be ordered as needed by submitting Form FmHA 440-57 to the Finance Office.

(c) Program instructions provide information as to the type of note to be utilized and the method of handling advances and the interest accrued thereon. For individual loan programs, interest will accrue from the loan closing date or date of check whichever is later. For association and organization type loans interest will accrue from the date the check is delivered to the borrower.

(d) For all loan accounts, when the total amount has not been advanced at the amortization effective date, as defined in the FMI for Form FmHA 1940-1, the Finance Office will forward the remaining balance to the District Director or County Supervisor for appropriate action, unless the District Director or County Supervisor notifies the Finance Office of other arrangements.

(e) When a check cannot be negotiated within 20 working days from the date of the check, the District Director or County Supervisor will return the check(s) with Form FmHA 440-10, "Cancellation of Loan or Grant Check and/or Obligation," in accordance with FmHA Instruction 102.1 (available in any FmHA Office).

(f) Funds provided to an FmHA borrower by another lender (through subordination agreements by the FmHA or under other arrangements between the borrower, FmHA, and the other lender) that are not used immediately after the loan and grant closing will be deposited in a supervised bank account under Form FmHA 402-5 or Exhibit D, provided:

(1) The District Director or County Supervisor determines such action is necessary to protect FmHA's interest and to assure that the funds will be used for the purposes planned,

(2) The other lender is unwilling to control the use of such funds, and

(3) The other lender is agreeable to the use of the FmHA supervised bank account.

(g) The debt instruments executed at the time of loan closing constitute an obligation on the part of the Government to disburse all funds at one time or in multiple advances provided the funds are for purposes authorized by the Government at the time of loan closing. This obligatory commitment takes priority over any intervening liens or advances by other creditors regardless of the provisions of the State laws involved.

§ 1902.3 Procedures to follow in fund disbursement.

(a) The District Director or County Supervisor will determine during loan approval the amount(s) of loan check(s)—full or partial—and forward such request to the Finance Office by complying with the FMI for Forms FmHA 1940-1 and FmHA 440-57.

(b) Counties using the telephone to request subsequent advances will call the designated telephone number provided by the Finance Office and request all subsequent checks by providing the information required on Form FmHA 440-57.

(c) When check(s) are delivered to the District Office or County Office, the District Director or County Supervisor will make sure that the name of the borrower and the amount(s) of check(s) coincide with the request on file. The District Director or County Supervisor should be sure that the check is properly endorsed to insure payment to the intended recipient. Examples of such restrictive endorsements are:

(1) "For Deposit Only to Account No. (Number of Construction Account) of (Name of Borrower) in (Name of Bank)".

(2) "Pay to the order of (3rd party payee)"—(Contractor, Developer, Sub-Contractor, Building Supply House, etc.) for the purpose of

(d) When necessary and only under the circumstances listed in § 1902.2 the District Director or County Supervisor will establish, or cause to be established, a supervised bank account.

§ 1902.4-1902.5 [Reserved]

§ 1902.6 Establishing supervised bank accounts.

(a) Each borrower will be given an opportunity to choose the financial institution in which the supervised bank account will be established, provided the bank is a member of the FDIC, the savings and loan is a member of the FSLIC, and the credit union is a member of the NCUA.

(b) When accounts are established, it should be determined that:

(1) The financial institution is fully informed concerning the provisions of the applicable deposit agreement.

(2) Agreements are reached with respect to the services to be provided by the financial institution including the frequency and method of transmittal of checking account statements, and

(3) Agreement is reached with the financial institution regarding the place where the counter-signature will be on checks.

(c) When possible, District Directors or County Supervisors will make arrangements with financial institutions to waive service charges in connection with supervised bank accounts.

However, there is no objection to the payment by the borrower of a reasonable charge for such service.

(d) If the amount of Community Facility, Water and Waste Disposal, Grazing Association, Irrigation and Drainage, Indian Land Acquisition, Watershed (WS), Organizational Rural Rental Housing (RRH), Resource Conservation and Development (RCD), EO loans to a Cooperative Association, Rural Cooperative Housing (RCH), or Organizational Labor Housing (LH) loan funds, and grant funds plus any borrower contributions and funds from other sources to be deposited in the supervised bank account will exceed \$100,000 the financial institution will be required to pledge collateral for the excess over \$100,000 before the deposit is made (see § 1902.7). In addition, a pledge of collateral may be required for other types of loans or grants in amounts in excess of the State Director's approval authority when determined necessary by the National Office on an individual case basis.

(e) Only one supervised bank account will be established for any borrower regardless of the amount or source of funds, except for RRH loans where separate accounts will be established for each project.

(f) When a supervised bank account is established, an original and two copies of the applicable Deposit Agreement and the Interest-Bearing Deposit Agreement (Exhibit B), when applicable, will be executed by the borrower, the financial institution, and a District or County Office employee. The original will be retained in the borrower's case file, one executed copy will be delivered to the financial institution and one executed copy to the borrower. An extra copy of the Interest-Bearing Deposit Agreement, when applicable will be prepared and attached to the certificate, passbook, or other evidence of deposit representing the interest-bearing deposit.

(1) If an agreement on the applicable Deposit Agreement has previously been executed and Form FmHA 402-6, "Termination of Interest in Supervised Bank Account," has not been executed with respect to it, a new agreement is not required when additional funds are to be deposited unless requested by the financial institution.

(2) When the note and security instrument are signed by two joint borrowers or by both husband and wife, a joint survivorship supervised bank account will be established from which either can withdraw funds if State laws permit such accounts. In such cases both parties will sign the Deposit Agreement(s).

§ 1902.7 Pledging collateral for deposit of funds in supervised bank accounts.

(a) Funds in excess of \$100,000 for borrowers referred to in § 1902.6(d), deposited in supervised bank accounts, must be secured by pledging acceptable collateral with the Federal Reserve Bank in an amount not less than the excess.

(b) As soon as it is determined that the loan will be approved and the applicant has selected or tentatively selected a financial institution for the supervised bank account, the District Director or County Supervisor will contact the financial institution to determine:

(1) That the financial institution selected is insured by the FDIC, (banks), FSLIC (savings and loans), or NCUA (credit unions).

(2) Whether the financial institution is willing to pledge collateral with the Federal Reserve Bank under Treasury Circular No. 176 to the extent necessary to secure the amount of funds being deposited in excess of \$100,000.

(3) If the financial institution is not a member of the Federal Reserve System it will be necessary for the financial institution to pledge the securities with a correspondent bank who is a member of the System. The correspondent bank should contact the Federal Reserve Bank informing them they are holding securities pledged for the supervised bank account under Treasury Circular 176.

(c) If the financial institution is agreeable to pledging collateral, the District Director or County Supervisor should complete a form letter (Exhibit A) in an original and two copies, the original for the National Office, the first copy for the State Office, and the second copy for the District or County Office. The form letter should be forwarded to the National Office at least 30 days before the date of loan closing.

(d) The National Office will arrange for the Treasury Department to have the

financial institution designated as a depository, unless already designated, and to have collateral pledged.

(e) If, two days before loan closing, the State Director has not received a copy of the Treasury Department's letter to the financial institution confirming that the pledge of collateral has been made, contact should be made with the depository bank to ascertain whether they have pledged collateral with their local Federal Reserve Bank in compliance with the provisions of Treasury Circular 176. If the bank has accomplished the pledge then contact the National Office, Financial Support Division.

(f) When the amount of the deposit in the supervised bank account has been reduced to a point where the financial institution desires part, or all of its collateral released, it should write to the Treasury Department, Domestic Banking Staff, Bureau of Government Operations, Washington, D.C. 20226. (ATTENTION: Collateral and Reports Branch) requesting the release and stating the balance in the supervised bank account.

§ 1902.8 Authority to establish supervised bank accounts, deposit loan checks and other funds, countersign checks, close accounts, and execute all forms in connection with supervised bank account transactions.

District Directors or County Supervisors are authorized to establish supervised bank accounts, deposit loan checks and other funds, countersign checks, close accounts, and execute all forms in connection with supervised bank account transactions and redelegate this authority to a person listed in Exhibit B of FmHA Instruction 1951-B, under their supervision who are considered capable of exercising such authority. State Directors will make written demand upon the bank for withdrawals as outlined in § 1902.16.

§ 1902.9 Deposits.

(a) *Deposit by FmHA personnel.*

(1) Checks made payable solely to the Federal Government, or any agency thereof, and a joint check when the Treasurer of the United States is a joint payee, may not be deposited in a supervised bank account.

(2) FmHA personnel will accept funds for deposit in a borrower's supervised bank account ONLY in the form of a check or money order endorsed by the borrower "For Deposit Only," or a check drawn to the order of the financial institution in which the funds are to be deposited, or a loan check drawn on the U.S. Treasury.

(i) A joint check that is payable to the borrower and FmHA will be endorsed

by the District Director or County Supervisor as provided in paragraph V E 4 of FmHA Instruction 1951-B.

(ii) Ordinarily, when deposits are made from funds which are received as the result of consent or subordination agreements or assignments of income, the check should be drawn to the order of the financial institution in which the supervised bank account is established or jointly to the order of the borrower and the FmHA. All such checks should be delivered or mailed to the District or County Office.

(3) If direct or insured loan funds (other than OL or EM, loan funds) or borrower contributions are to be deposited in a supervised bank account, such funds will be deposited on the date of loan closing *after it has been determined that the loan can be closed.* However, if it is impossible to deposit the funds on the day the loan is closed due to reasons such as distance from the financial institution or banking hours, the funds will be deposited on the first banking day following the date of loan closing.

(4) Grant funds will be deposited when such funds are delivered.

(5) When funds from any source are deposited by FmHA personnel in a supervised bank account, a deposit slip will be prepared in an original and two copies and distribution as follows: Original to the financial institution, one copy to the borrower, and one copy for the borrower's case folder. The names of the borrower, the sources of funds, and "Subject to FmHA Countersignature," and if applicable, the account number will be entered on each deposit slip.

(6) A loan or grant check drawn on the U.S. Treasury may be deposited in a supervised bank account without endorsement by the borrower when it will facilitate delivery of the check and is acceptable to the financial institution. The borrower will be notified immediately of any deposit made and will be furnished a copy of the deposit slip. When a deposit of this nature is made, the following endorsement will be used:

"For deposit only in the supervised bank account of (name of borrower) in the (name of financial institution and address when necessary for identification) pursuant to Deposit Agreement dated _____."

(7) Accounts established through the use of Interest-Bearing Deposit Agreement will be in the name of the depositor and the Government.

(b) *Deposits by borrowers.* Funds in any form may be deposited in the supervised bank account by the borrower if authorized by FmHA provided the financial institution has agreed that when a deposit is made to

the account by other than FmHA personnel, the financial institution will promptly deliver or mail a copy of the deposit slip to the FmHA District or County Office.

(1) A loan or grant check drawn on the U.S. Treasury may be deposited in a supervised bank account by a borrower, provided the following endorsement is used and is inserted thereon prior to delivery to the borrower for signature:

For deposit only in my supervised bank account in the (name of financial institution and address when necessary for identification) pursuant to Deposit Agreement dated _____.

(2) Funds other than loan or grant funds may be deposited by the borrower in those exceptional instances where an agreement is reached between the District Director or County Supervisor and the borrower, whereby the borrower will make deposits of income from any source directly into the supervised bank account. In such instances the borrower will be instructed to prepare the deposit slip in the manner described in § 1902.9(a)(5).

§ 1902.10 Withdrawals.

(a) The District Director or County Supervisor will not countersign checks on the supervised bank account for the use of funds unless the funds deposited by the borrower from other sources were cash deposits, or checks which the District Director or County Supervisor knows to be good, or until the deposit checks have cleared.

(b) Withdrawals of funds deposited under the applicable deposit agreement are permitted only by order of the borrower and countersignature of authorized FmHA personnel, or upon written demand on the financial institution by the State Director.

(c) Upon withdrawal or maturity of interest-bearing accounts established through the use of an Interest-Bearing Deposit Agreement, such funds will be credited to the supervised bank account established through the use of Form FmHA 402-1 or 402-5.

(d) The issuance of checks on the supervised bank account will be kept to the minimum possible without defeating the purpose of such accounts. When major items of capital goods are being purchased, or a limited number of relatively costly items of operating expenses are being paid, or when debts are being refinanced, the checks will be drawn to the vendors or creditors. If minor capital items are being purchased or numerous items of operating and family living expenses are involved as in connection with a monthly budget, a check may be drawn to the borrower to provide the funds to meet such costs.

(1) A check will be issued payable to the appropriate payee but will never be issued to "cash." The purpose of the expenditure will be clearly shown on Form FmHA 402-2, "Statement of Deposits and Withdrawals," and indicated on the face of the check. When checks are drawn in favor of the borrower to cover items too numerous to identify, the expenditure will be identified on the check, as "miscellaneous."

(2) Normally, OL and EM loan funds will not be withdrawn from the supervised bank account until the lien search has been made and a determination reached that the required security has been obtained. This applies also to withdrawal of funds in secured individual loan cases. However, in those instances when the applicant is unable to pay for the lien search and filing fees from personal funds, a check for this purpose may be drawn on the supervised bank account to meet these loan making requirements.

(3) Ordinarily, a check will be countersigned before it is delivered to the payee. However, in justifiable circumstances such as when excessive travel on the part of the borrower, District Director or County Supervisor would be involved, or purchase would be prevented, and the borrower can be relied upon to select goods and services in accordance with the plans, a check may be delivered to the payee by the borrower before being countersigned.

(i) When a check is to be delivered to the payee before being countersigned, the District Director or County Supervisor must make it clear to the borrower and to the payee, if possible, that the check will be countersigned only if the quantity and quality of items purchased are in accordance with approved plans.

(ii) Checks delivered to the payee before countersignature will bear the following legend in addition to the legend for countersignature: "Valid only upon countersignature of Farmers Home Administration."

(iii) The check must be presented by the payee or a representative to the District or County Office of the FmHA servicing the account for the required countersignature.

(iv) Such check must be accompanied by a bill of sale, invoice, or receipt signed by the borrower identifying the nature and cost of goods or services purchased or similar information must be indicated on the check.

(4) For real estate loans or grants, whether the check is delivered to the payee before or after countersignature, the number, and date of the check will be inserted on all bills of sale, invoices,

receipts, and itemized statements for materials, equipment, and services.

(5) Bills of sale, and so forth, may be returned to the borrower with the canceled check for the payment of the bill.

(6) Checks to be drawn on a supervised bank account will bear the legend:

Countersigned, not as co-maker or endorser.

(Title)

Farmers Home Administration

§ 1902.11 District Office and County Office records.

A record of funds deposited in a supervised bank account will be maintained on Form FmHA 402-2 in accordance with the FMI and Exhibit A of FmHA Instruction 2033-A, available in any FmHA office. The record of funds provided for operating purposes by another creditor or grantor will be on a separate Form FmHA 402-2 so that they can be clearly identified.

§ 1902.12-1902.13 [Reserved]

§ 1902.14 Reconciliation of accounts.

(a) A checking account statement will be obtained periodically in accordance with established practices in the area. If requested by the financial institution a supply of addressed, franked envelopes will be provided for use in mailing checking account statements and cancelled checks for supervised bank accounts to the District or County Office. Checking account statements will be reconciled promptly with District or County Office records. The persons making the reconciliation will initial the record and indicate the date of the action.

(b) All checking account statements and canceled checks will be forwarded immediately to the borrower when bank statements and District or County Office records are in agreement. If a transmittal is used, Form FmHA 140-4, "Transmittal of Documents," is prescribed for that purpose.

§ 1902.15 Closing accounts.

When FmHA loan or grant funds and those of any lender have all been properly expended or withdrawn, Form FmHA 402-6 may be used to give FmHA's consent (and of another lender, if involved) to close the supervised bank account in the following situations:

(a) When FmHA loan funds in the supervised bank account of a borrower have been reduced to \$100 or less, and a check for the unexpended balance has been issued to the borrower to be used for authorized purposes.

(b) For all loan accounts, except loans listed in § 1902.6(d), after completion of authorized loan fund expenditures, and after promptly refunding any remaining unexpended loan funds on the borrower's loan account with FmHA or another lender, as appropriate.

(c) For loan and grant accounts listed in § 1902.6(d), when the funds have been expended in accordance with the requirements of Part 1942 Subpart A and Part 1823, Subpart I (FmHA Instructions 1942-A and 442.9) the supervised bank account will be closed within 90 days following completion of development unless and extension of time is authorized in writing by the District Director. If the borrower will not agree to close the account, the District Director or County Supervisor will request the State Director to make demand upon the financial institution in accordance with § 1902.16.

(d) Promptly upon death of a borrower, except when the loan is being continued with a joint debtor, when a borrower is in default and it is determined that no further assistance will be given, or when a borrower is no longer classified as "active."

(1) *Deceased borrowers.*

(i) Ordinarily, upon notice of the death of a borrower, the District Director or the County Supervisor will request the State Director to make demand upon the bank for the balance on deposit and apply all the balance after payment of any bank charges to the borrower's FmHA indebtedness. When the State Director approves continuation with a survivor, the supervised bank account of deceased borrower may be continued with a remaining joint debtor who is liable for the loan and agrees to use the unexpended funds as planned, provided:

(A) The account is a joint survivorship supervised bank account, or

(B) If not a joint survivorship account, the financial institution will agree to permit the addition of the surviving joint debtor's name to the existing signature card and the appropriate Deposit Agreement and continue to disburse checks out of the existing account upon FmHA's countersignature and the joint debtor's signature in place of the deceased borrower, or

(C) The financial institution will permit the State Director to withdraw the balance from the existing supervised bank account with a check jointly payable to the FmHA and the surviving joint debtor and deposit the money in a new supervised bank account with a surviving joint debtor, and will disburse checks from this new account upon the signature of such survivor and the countersignature of an authorized FmHA official.

(ii) The State Director, before applying the balance remaining in the supervised bank account to the FmHA indebtedness, is authorized upon approval by the Office of the General Counsel (OGC) to refund any unobligated balances of funds from other lenders to the FmHA borrower for specific operating purposes in accordance with subordination agreements or other arrangements between the FmHA, the lender and the borrower.

(iii) The State Director, upon the recommendation of an authorized representative of the estate of the deceased borrower and the approval of the OGC, is authorized to approve the use of deposited funds for the payment of commitments for goods delivered or services performed in accordance with the deceased borrower's plans approved by FmHA.

(2) *Borrowers in default.* Whenever it is impossible or impractical to obtain a signed check from a borrower whose supervised bank account is to be closed, the District Director or County Supervisor will request the State Director to make demand upon the financial institution for the balance on deposit in the borrower's supervised bank account for application as appropriate:

(i) To the borrower's FmHA indebtedness, or

(ii) As refunds of any unobligated advance provided by other lenders which were deposited in the account, or

(iii) For the return of FmHA grant funds to the FmHA Finance Office, or

(iv) For the return of grant funds to other grantors.

(3) *Inactive borrowers.* An inactive borrower is one whose loan has not been paid in full, but is no longer classified as "inactive."

(4) *Paid up borrowers.* A paid-up borrower is one who has a balance remaining in the supervised bank account and has repaid the entire indebtedness to FmHA and has properly expended all funds advanced by other lenders. In such cases the District Director or County Supervisor will (i) notify the borrower in writing that the interests in the account of FmHA have been terminated, and (ii) inform the borrower of the balance remaining in the supervised bank account.

§ 1902.16 Request for withdrawals by State Director.

When the State Director is requested to make written demand upon the financial institution for the balance on deposit in the supervised bank account, or any part thereof, the request will be

accompanied by the following information.

(a) Name of borrower as it appears on the applicable Deposit Agreement.

(b) Name and location of financial institution.

(c) Amount to be withdrawn for refund to another lender of any balance that may remain of funds received by the borrower from such lender as a loan or grant, or under a subordination agreement or other arrangement between the FmHA, the other lender, and the borrower.

(d) Amount to be withdrawn, excluding any service charges, for a refund of FmHA's.

(e) Other pertinent information including reasons for the withdrawal.

§§ 1902.17-1902.50 [Reserved]

Exhibit A—Designated Financial Institution—Collateral Pledge Memo

Dates _____
 District Office or County Office Location: (as applicable) _____
 Telephone No.: (indicate FTS or provide area code) _____
 To: Administrator, FmHA
 Attn: Financial Support Division,
 Washington, DC 20250
 1. Name of borrower or grantee (Please indicate if subsequent loan)
 2. Type of loan or grant funds
 3. Name and location of Financial Institution (excluding street address)

Location of Branch, _____
 (If to be used for deposit of loan funds)
 4. Proposed amount of FmHA: Loan \$ _____ Grant \$ _____
 5. Amount of any other funds to be deposited in addition to amount in item 4 \$ _____
 6. Largest amount from all sources that will be on deposit at any one time \$ _____
 (Amount should include FDIC, FSLIC, or NCUA coverage of \$100,000)
 7. Estimated closing date _____
 8. Name of other account(s) for which the financial institution has pledged collateral _____
 Also indicate balance of FmHA loan and/or grant funds on deposit for these accounts or any future deposits which will be above the FDIC, FSLIC or NCUA coverage. (Signature) _____

Exhibit B—Interest-Bearing Deposit Agreement

Whereas, Certain funds of _____ hereinafter referred to as the "Depositor," are now on deposit with the _____, hereinafter referred to as the "Bank," under a Deposit Agreement, dated _____, 19____, providing for supervision thereof by the United States of America, acting through the Farmers Home Administration, hereinafter referred to as the "Government," which Deposit Agreement grants to the Government security and/or other interests in the funds covered thereby; and,

Whereas, certain of said funds are not now required for immediate disbursement and it is

the desire of the Depositor to place the same in interest-bearing deposits with the Bank;

Now therefore, the Depositor and the Government hereby authorize and direct the Bank to place _____ Dollars (\$_____) of the funds subject to said Deposit Agreement in interest-bearing deposits as follows:

\$_____ for a period _____ months at _____% interest

\$_____ for a period _____ months at _____% interest

\$_____ for a period _____ months at _____% interest

Said interest-bearing deposits and the income earned thereon at all times shall be considered a part of the account covered by said Deposit Agreement except that the right of the Depositor and the Government to jointly withdraw all or a portion of the funds in the account covered by the Deposit Agreement by an order of the Depositor countersigned by a representative of the Government, and the right of the Government to make written demand for the balance or any portion thereof, is modified by the above time deposit maturity schedule. The evidence of such time deposits shall be issued in the names of the Depositor and the Farmers Home Administration.

A copy of this Agreement shall be attached to and become a part of each certificate, passbook, or other evidence of deposit that may be issued to represent such interest-bearing deposits.

Executed this _____ day of _____,

United States of America

(Depositor) _____

By: _____

County Supervisor

Farmers Home Administration

U.S. Department of Agriculture

By: _____

Title: _____

Accepted on the foregoing terms and conditions this _____ day of _____, 19____

(Bank) _____

(Office or Branch) _____

By: _____

Title: _____

Exhibit C—Deposit Agreement

Name(s) of Depositor(s) _____
 Social security or IRS tax No _____
 Address (Including Zip Code) c/o Farmers Home Administration
 Name and Address of savings and loan or credit union (Including Zip Code) _____
 County of residence _____
 Date of Agreement _____
 Account Number (if used) _____

This agreement, made on the date indicated above, between the United States of America, acting through the Farmers Home Administration, herein called the "Government," the above-named Depositor(s), herein called the "Depositor" and the above named Savings and Loans or Credit Union herein called the "Depository" WITNESSETH:

In consideration of loans or other advance(s) of funds made or insured by the Government and the depositing in the Depository to the credit of the Depositor in the account established pursuant to this agreement, of moneys derived from such loans or other advance(s) of funds, of moneys otherwise obtained by the Depositor, it is agreed as follows:

1. The Depositor hereby assigns, transfers, and pledges to the Government the aforesaid account and deposit(s), heretofore or hereafter made, and conveys to the Government a security interest in all money deposited in said account, as security for the repayment of any and all indebtedness now or hereafter owing by the Depositor to or insured by the Government, and for the performance of the obligations and agreements of the Depositor in connection with such advance(s) or indebtedness.

2. No part of such deposit(s), account or money shall be withdrawn by the Depositor and no withdrawal shall be permitted by the Depository except on the order of the Depositor and the counter signature of a duly authorized representative of the Government. Provided, however, that at any time upon written demand or order by the State Director of the Farmers Home Administration the Depository shall pay over the balance then on hand, or any part thereof demanded, for application on said indebtedness or as a return of grant funds to the Government or for protection of the Government's lien or security to accomplish the purpose for which such advances were made: Provided, further, that the death, disability, or insolvency of the Depositor shall not impair the power of the State Director to demand or order such withdrawal.

3. The Depository agrees that it will not assert any right of offset, except service charges, with respect to the funds deposited pursuant to this agreement by reason of any indebtedness or claim now or hereafter owing to or acquired by it.

4. The Depository shall be under no obligation with respect to the expenditure of funds after their withdrawal from the Depository in accordance with the provisions of this agreement. Upon making payment pursuant to an order or check duly executed by the Depositor and the countersigning officer, or pursuant to the written demand or order of the said State Director, the Depository shall be discharged from all obligations with respect to the funds so released.

5. The Depository agrees that, at the end of each _____ period, it will forward statements and cancelled checks to the Farmers Home Administration office at the above address shown above for review by that Agency.

In witness whereof, the parties hereto have executed this agreement as of the day and year first above written.

Depository _____
By _____
Depositor _____
Depositor _____
United States of America
By (Title) _____

Farmers Home Administration
United States Department of Agriculture

Note to depository: Please return signed original and copy of this form, along with copy of deposit slip to the above FmHA Office address.

Exhibit D—Deposit Agreement (Non-FmHA Funds)

Name(s) of depositor(s) _____
Name and address of savings and loan or credit union (Zip Code) _____

County of residence _____
Address of Farmers Home Administration (Zip Code) _____
Name and address of lender (Zip Code) _____
(leave blank when lender and S&L or credit union are same) _____
Date of agreement _____
Account number (if used) _____

This agreement, made on the date indicated above, between the United States of America, acting through the Farmers Home Administration, herein called the "Depositor," and the above-named Savings and Loan or Credit Union herein called the "Depository" and the above-named lender or grantor, herein called the "Lender."

WITNESSETH:

In consideration of loans or other advance(s) of funds made or insured by the Lender and by the Government and the depositing in the Depository, to the credit of the Depositor in the account established pursuant to this agreement, of moneys derived from the loans or other advance(s) of funds by the Lender, or moneys otherwise obtained by the Depositor, it is agreed as follows:

1. The Depositor hereby assigns, transfers, and pledges to the Government as trustee for the Lender the aforesaid account and deposit(s), heretofore, or hereafter made, and conveys to the Government as trustee for the Lender a security interest in all money deposited in said account, (a) as security for the repayment of any and all indebtedness now or hereafter owing by the Depositor to or insured by the Lender and (b) for the performance of obligations and agreements of the Depositor in connection with such advance(s).

2. No part of such deposit(s), account or money shall be withdrawn by the Depositor and no withdrawal shall be permitted by the Depository except on the order of the Depositor and counter-signature of a duly authorized representative of the Government: Provided, however, that at any time upon written demand or order by the State Director of the Farmers Home Administration the Depository shall pay over the balance then on hand, or any part thereof demanded, in accordance with the demand for use for the purposes for which the advance(s) were made or for return to the Lender for application on the indebtedness or as a return of grant funds: Provided, further, that the death, disability or insolvency of the Depositor shall not impair the power of the State Director to demand or order such withdrawal.

3. The Depository agrees that it will not assert any right of offset, except service charges, with respect to the funds deposited pursuant to this agreement by reason of any indebtedness of claim now or hereafter owing to or acquired by it.

4. The Depository and the Government shall be under no obligations with respect to the expenditure of funds after their withdrawal from the Depository in accordance with the provisions of this agreement. Upon making payment pursuant to an order or check duly executed by the Depositor and the countersigning officer, or pursuant to the written demand or order of the said State Director, the Depository shall be discharged from all obligations with respect to the funds so released.

5. The Depository further agrees that, at the end of each _____ period, it will forward statements and cancelled checks to the Farmers Home Administration office at the address shown above for review by that Agency.

In witness whereof, the parties hereto have executed this agreement as of the day and year first above written.

Depository _____
By _____

Omit Lender's Signature when it is the same as the depository

Lender _____

By _____

(Official Title) _____

United States of America

By _____

(Official title Farmers Home Administration)

Depositor _____

Depositor _____

Note.—This document has been reviewed in accordance with FmHA Instruction 1901-G, "Environmental Impact Statements." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environment Policy Act of 1969, Public Law 91-190, an Environmental Impact Statement is not required.

Dated: November 12, 1980.

James E. Thornton,
Administrator, Farmers Home
Administration.

[FR Doc. 80-36119 Filed 11-18-80; 8:45 am]

BILLING CODE 3410-07-M

NUCLEAR REGULATORY COMMISSION

10 CFR Ch. I

NRC Action Plan; Request for Comments

AGENCY: Nuclear Regulatory Commission.

ACTION: Requests for comments.

SUMMARY: The Commission requested public comments on NUREG-0660, NRC Action Plan Developed as a Result of the TMI-2 Accident" (45 FR 50613). The public comment period is being extended 45 days.

DATES: Comment period expires December 12, 1980.

ADDRESSES: Written comments or suggestions for consideration in connection with the NRC Action Plan should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Copies of comments received may be examined at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. Copies of the NRC Action Plan (NUREG-0660, "NRC Action Plan Developed as a Result of the TMI-2 Accident") are also available

for inspection at the same address and at all NRC local Public Document Rooms (LPDRs).

Copies are available upon request by persons who wish to comment, at no cost, from NRC's GPO Sales Program, Division of Technical Information and Document Control, ATTN: Sales Manager, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (Phone 301-492-9530).

FOR FURTHER INFORMATION CONTACT: Mr. Warren Minners, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (Phone 301-492-7581).

Dated at Bethesda, Maryland, this 13th day of November 1980.

For the Nuclear Regulatory Commission,
Frank Schroeder,
Acting Director for Safety Technology.

[FR Doc. 80-36085 Filed 11-18-80; 8:45 am]

BILLING CODE 7590-01-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Parts 1031 and 1032

Voluntary Standards Activities; Modification of Policy

AGENCY: Consumer Product Safety Commission.

ACITON: Proposed revision of regulations.

SUMMARY: The Commission proposes minor modifications to its regulations concerning association with voluntary standards development groups. These modifications deal primarily with procedural matters such as staff reports and meetings with voluntary standards development groups as well as the terms used to describe these associations.

DATES: (1) Comments concerning these proposed revisions should be received on or before January 19, 1981. (2) Effective date: The Commission proposes that these modifications take effect 30 days after they are published in final form.

ADDRESSES: Written comments, preferably in 5 copies should be submitted to the Secretary, Consumer Product Safety Commission, Washington, D.C. Copies of materials relevant to this proposal may be seen in or obtained from the Office of the Secretary, third floor, 1111 18th St., N.W., Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT: Bert Simson, Director, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, (301) 492-6554.

SUPPLEMENTARY INFORMATION:

Commission regulations concerning voluntary safety standards and involvement of Commission staff in helping voluntary standards groups develop such standards reflect Commission awareness that voluntary standards can contribute to the Commission's goal of reducing hazards associated with consumer products. Commission regulations at 16 CFR 1031, entitled Employee Membership and Participation in Voluntary Standards Organizations, set forth in detail the criteria for Commission staff involvement with voluntary standards development groups in order to ensure that such involvement presents no real or apparent conflict of interest with Commission staff members' duties and responsibilities to the Consumer Product Safety Commission.

Commission regulations at 16 CFR 1032 entitled, Commission Involvement in Voluntary Standards Activities, describe the extent and form of Commission involvement in these activities and how these may affect Commission programs.

From time to time experience may indicate that changes in these regulations would assist the efficient implementation of Commission programs. It is the Commission's view that staff involvement with voluntary standards development groups should be conducted in the context of all Commission consumer product safety programs. Toward this end, the internal organization of the Commission's Office of Program Management (OPM), which coordinates staff activities relating to regulation of consumer products, has been adjusted so that staff involvement with voluntary standards development activities will be based on program needs in accordance with Commission policy. In this way, such involvement becomes a part of any program dealing with hazards associated with consumer products. Formerly, a discrete staff unit dealt with voluntary standards development activities as such, rather than regarding such activities as integral parts of ongoing Commission programs in the hazard areas of: fire and thermal burns; acute chemical and environmental hazards; chronic chemical and environmental hazards; electrical hazards; mechanical hazards associated with children's and recreational products; mechanical hazards associated with powered equipment; and mechanical hazards associated with household structural products.

To assist integration of appropriate voluntary standards development

program into these program areas, the Commission proposes the following modifications of its regulations concerning staff involvement with voluntary standards development efforts: (1) program managers may occasionally attend meetings of voluntary standards development groups with which Commission staff may be involved for the purpose of providing guidance based on program needs; (2) to avoid confusion the descriptions of levels of Commission staff involvement with voluntary standards development groups is changed, although the extent of substantive involvement is unchanged; (3) preparation of staff reports to the Commission on staff involvement with voluntary standards development is changed from quarterly to semiannually because experience shows that semiannual reports would be sufficiently informative.

(1) *Occasional attendance of program managers at meetings*—At the present time, Commission regulations at 16 CFR 1031.5(b) provide that program managers in the Office of Program Management are among Commission employees who do not take part in the development of voluntary standards unless the Commission so permits on a case-by-case basis. The reasoning behind this provision is that such involvement could appear to involve a conflict of interest since program managers make recommendations to the Commission concerning evaluation of voluntary standards that may be considered for possible adoption as mandatory standards or as the possible basis for deferring mandatory action.

Experience has shown, however, that conflicts of interest have not materialized. In part this may be because the recommendations of a program manager are reviewed by the Director of the Office of Program Management and the Executive Director. Higher levels of review for recommendations of program managers have always existed in fact; they will now be specifically referred to in the regulations.

Experience indicates too, that the occasional presence of a program manager at meetings of a voluntary standards development group in which Commission technical staff members are involved, could help to focus the technical deliberations of the group and possibly help speed up the development process. Program managers by the nature of their work deal with multidisciplinary coordination of the staff's technical skills within current Commission projects. Thus, at critical

junctures in the development of voluntary standards, program managers are in the unique position of being able to communicate Commission policy on all aspects of a project involving a particular consumer product and to assess whether timely progress in the appropriate direction, within the context of Commission policy, is taking place.

Accordingly, the Commission proposes to modify § 1031.5(b)(4) by proposing that: "with advance approval by the Executive Director, to be provided on a case-by-case basis, program managers may occasionally, not regularly, attend meetings of voluntary standards development groups in order to provide the program context for the voluntary standards development efforts with which Commission technical employees may be involved". Further, the Commission proposes that § 1031.5(i), as set forth below, provide that any recommendations made by a program manager concerning voluntary standards are to be reviewed by higher-level Commission employees.

(2) *Terms to describe levels of CPSC staff involvement with voluntary standards development groups*—At the present time, Commission regulations at 16 CFR 1032.2(b) describe three levels of such activity; beginning with the least involvement, these are liaison, monitoring and participation. The definition of liaison now describes a minimal form of involvement that consists of making Commission materials available to voluntary standards groups and maintaining some contacts with them. The definition of monitoring now describes closer contacts by staff including more frequent attendance at meetings and staff review of meeting logs and draft voluntary standards. Participating involves regular attendance of CPSC staff, as nonvoting members of voluntary standards development groups and active involvement of staff in technical committee discussions. In certain circumstances, the Commission will authorize expenditure of resources for research, engineering support, or information and education programs for the purpose of supporting development and implementation of a voluntary standard effort.

Since activities involving participation are substantial and resource-intensive, participation in voluntary standards efforts must be approved by the Commission. Activities involving liaison and monitoring involve more limited use of resources and can be undertaken upon approval of the Executive Director. Experience has shown that liaison and

monitoring activities are closely related and tend to overlap. Thus the terms liaison and monitoring, by themselves, do not serve to clearly differentiate the extent of staff involvement. The needs of individual voluntary standards efforts, as determined by the Executive Director, affect the extent of any staff involvement short of participation. The Commission concludes that continuing the use of different terms, liaison and monitoring, for what is essentially a continuing process, can mislead the public as to the extent of CPSC staff involvement.

Accordingly, the Commission proposes to modify section 1032.2(b) as set forth below, to combine present descriptions of liaison and monitoring into one term, monitoring. The revised section provides that the term monitoring describes and degree of CPSC staff involvement approved by the Executive Director. The term participation is unchanged; participation must still be approved by the Commission because it can involve significant Commission resources.

(3) *Frequency of reports on voluntary standards activities*—At the present time, Commission regulations at 16 CFR 1032.3(c) provide that quarterly reports on voluntary standards activities are to be submitted to the Commission by the staff. Experience indicates that less frequent reports could provide an accurate picture of the proceedings of voluntary standards development groups and that quarterly reports are not needed for this purpose. It appears that quarterly reports have tended to be repetitive and provided little new or useful information. The Commission concludes that semiannual reports would provide the needed information.

Accordingly, the Commission proposes to revise section 1032.3(c) below to change the frequency of staff reports on voluntary standards from quarterly to semiannually. Although not specifically stated in the proposed revised section, any unusual voluntary standards activity or any activity of special interest that may occur in the period between semiannual reports would also be reported to the Commission.

Therefore, pursuant to the Consumer Product Safety Act, 15 U.S.C. 2051 *et seq.*, the Commission proposes to amend Part 1031 and Part 1032 of Title 16, Chapter II, Subchapter A, as follows:

1. Section 1031.5 is amended by revising paragraphs (b)(4) and (i) to read as follows:

§ 1031.5 Participation criteria.

- (a) * * *
- (b) * * *

(4) * * * Except that: with advance approval of the Executive Director, to be provided on a case-by-case basis, program managers may occasionally, not regularly, attend meetings of voluntary standards development groups in order to provide the program context for the voluntary standard development efforts with which Commission technical employees may be involved.

- (c) * * *
- (d) * * *
- (e) * * *
- (f) * * *
- (g) * * *
- (h) * * *

(i) * * * Any evaluation or recommendation shall be reviewed by higher-level commission employees.

2. Section 1032.2(b) is amended by changing the word "three" to "two" in the third sentence, by revising and combining paragraphs (b)(1) and (b)(2) into paragraph (b)(1), and by renumbering paragraph (b)(3) to (b)(2) as follows:

§ 1032.2 Extent and form of Commission involvement in the development of voluntary standards.

- (b) [Amended]

(1) *Monitoring.* Monitoring involves maintaining an awareness of the voluntary standards development process through oral or written inquiries, receiving and reviewing minutes of meetings and copies of draft standards, and attending meetings for the purpose of observing and commenting during the standards development process. For example, monitoring involves responding to requests from voluntary standards organizations, standards development committees, trade associations and consumer organizations, by providing information concerning the risks of injury associated with particular products, NEISS data, summaries and analyses of in-depth investigation reports; discussing Commission goals and objectives with regard to voluntary standards and improved consumer product safety; responding to requests for information concerning Commission programs; and initiating contacts with voluntary standards organizations to discuss cooperative voluntary standards activities.

(2) Participating. * * *

3. Section 1032.3 is amended by revising paragraphs (a) and (c) to read as follows:

§ 1032.3 Determination of Commission involvement in voluntary standards activities; summary of activities.

(a) The Executive Director shall approve Commission activities that are within the definition of "monitoring".

(b) * * *

(c) The Office of Program Management is responsible for preparing a semiannual summary of such activities for the Commission.

* * * * *

Dated: November 13, 1980.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 80-36089 Filed 11-18-80; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 151

Proposed Amendment to the Customs Regulations Relating to the Examination of Merchandise

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations to provide that at ports of entry specifically designated by the Commissioner of Customs, the district director of Customs would be authorized to release, without examination, merchandise of a character which the district director has determined need not be examined in every instance to ensure the protection of the revenue and enforcement of Customs and other laws.

Customs has been testing a pilot automated selective examination system at several ports of entry, and the results have been encouraging. The proposed amendments would allow for servicewide use of the system to improve the effectiveness of Customs cargo inspections.

DATE: Comments must be received on or before January 19, 1981.

ADDRESS: Comments may be addressed to the Commissioner of Customs, Attention: Regulations and Research Division, Room 2335, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: William Morandini, Office of Inspection, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5354).

SUPPLEMENTARY INFORMATION:

Background

Section 499, Tariff Act of 1930, as amended (19 U.S.C. 1499), provides that not less than one package of every invoice and not less than one of every 10 packages of imported merchandise shall be opened and examined. However, if the Secretary of the Treasury, from the character and description of the merchandise, is of the opinion that examination of a lesser proportion of packages will amply protect the revenue, by special regulation or instruction, the application of which may be restricted to one or more individual ports, one or more importations, or to one or more classes of merchandise, he may permit a lesser number of packages to be examined.

Section 151.2, Customs Regulations (19 CFR 151.2), implements 19 U.S.C. 1499 by providing that not less than one of every 10 packages of merchandise shall be examined unless a special regulation permits a lesser number of packages to be examined. Section 151.2 further provides that district directors are authorized specially to examine less than one of every 10 packages, but not less than one package of every invoice, in the case of any merchandise imported in packages (1) the contents and values of which are uniform, or (2) the contents of which are identical as to character although differing as to quantity and value per package.

A June 1978 General Accounting Office draft report to Congress entitled "Customs' Cargo Processing—Fewer But More Intensive Inspections Are In Order", recommended that a comprehensive cargo selective inspection system would be more efficient than Customs traditional inspection approach. To implement this recommendation, Customs has been testing a pilot automated selective examination system, the Accelerated Cargo Clearance and Entry Processing Test (ACCEPT), in several ports of entry. The results have been encouraging.

To allow for expanded use of the system on a servicewide basis to improve the effectiveness of Customs cargo inspections, it is proposed to amend paragraph (a) of § 151.2 to provide that at ports of entry specifically designated by the Commissioner of Customs, the district director would be authorized to release, without examination, merchandise of a character which the district director has determined need not be examined in every instance to ensure protection of the revenue and enforcement of Customs and other laws.

Section 151.1, Customs Regulations (19 CFR 151.1), provides that the district director shall examine such packages or quantities of merchandise as he deems necessary for the determination of duties and for other Customs purposes. It is proposed to amend § 151.1 to clarify that Customs officers may examine shipments to ensure compliance with any other laws enforced by the Customs Service, as well as with the Customs laws. For example, imported merchandise may be examined for the Department of Agriculture, the Environmental Protection Agency, and the Department of Health, Education and Welfare, among other agencies, to determine that it complies with the laws which are administered primarily by those agencies.

Authority

These amendments are proposed under the authority of R.S. 251, as amended (19 U.S.C. 66), and sections 499, 624, 46 Stat. 728, as amended, 759, General Headnotes 11, 12, Tariff Schedules of the United States (19 U.S.C. 1202, 1499, 1624).

Comments

Before adopting this proposal, consideration will be given to any written comments (preferably in triplicate) that are submitted timely to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with § 103.8(b), Customs Regulations (19 CFR 103.8(b)), during regular business hours at the Regulations and Research Division, Room 2335, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Applicability of Executive Order 12044

This document is subject to the Treasury Department directive published in the **Federal Register** on November 8, 1978 (43 FR 52120), implementing Executive Order 12044, "Improving Government Regulations", and was the subject of Work Plan #79-20, approved by the Department on July 31, 1979.

Regulation Determined To Be Nonsignificant

In the directive implementing Executive Order 12044, the Treasury Department stated that it considers each regulation published in the **Federal Register** and codified in the Code of Federal Regulations to be "significant". However, regulations which are nonsubstantive, essentially procedural, and do not impose substantial additional requirements or cost on, or substantially alter the legal rights or

obligations of, those affected, with Secretarial approval, may be determined not to be significant. Accordingly, it has been determined that this document does not meet the Treasury Department criteria in the directive for "significant" regulations.

Drafting Information

The principal author of this document was Laurie Strassberg Amster, Regulations and Research Division, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Proposed Amendments

PART 151—EXAMINATION, SAMPLING, AND TESTING OF MERCHANDISE

1. It is proposed to amend § 151.1, Customs Regulations (19 CFR 151.1), to read as follows:

§ 151.1 Merchandise to be examined

The district director shall examine such packages or quantities of merchandise as he deems necessary for the determination of duties and for compliance with the Customs laws and any other laws enforced by the Customs Service.

2. It is proposed to amend paragraph (a) of § 151.2, Customs Regulations (19 CFR 151.2), to read as follows:

§ 151.2 Quantities to be examined.

(a)(1) *Minimum quantities.* Not less than one package of every 10 packages of merchandise shall be examined, unless a special regulation permits a lesser number of packages to be examined. District directors are specially authorized to examine less than one package of every 10 packages, but not less than one package of every invoice, in the case of any merchandise which is:

- (i) Imported in packages the contents and values of which are uniform, or
- (ii) Imported in packages the contents of which are identical as to character although differing as to quantity and value per package.

(2) *Exceptions to minimum quantities.* At ports of entry specifically designated by the Commissioner of Customs, the district director is authorized to release, without examination, merchandise of a character which the district director has determined need not be examined in every instance to ensure the protection of the revenue and compliance with the

Customs laws and any other laws enforced by the Customs Service.

R. E. Chasen,

Commissioner of Customs.

Approved: November 6, 1980.

Richard J. Davis,

Assistant Secretary of the Treasury.

[FR Doc. 80-36052 Filed 11-18-80; 8:45 am]

BILLING CODE 4810-22-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Housing Commissioner—Office of Assistant Secretary for Housing

24 CFR Part 200

[Docket No. R-80-888]

Project Selection Criteria

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of Congressional Waiver request under Section 7(o)(4) of the Department of HUD Act. This legislation permits the Secretary to request waiver of the legislation's requirements in appropriate instances. This Notice lists and briefly summarizes for public information a final rule with respect to which the Secretary is presently requesting waiver.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of the General Counsel, 451 Seventh Street, S.W., Washington, D.C. 20410 (202) 755-6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuances of this Notice, the Secretary is forwarding to the Chairman and Ranking Minority Members of both Congressional Banking Committees the final rule listed below. The purpose of the transmittal is to request waiver of both the 15-day prepublication review period, under Section 7(o)(2), and the 30-day delayed effective date for the final rule under Section 7(o)(3) of the Department of Housing and Urban Development Act. A summary of the rulemaking document for which waiver has been requested is set forth below:

Final Rule—24 CFR Part 200, Subpart N—Project Selection Criteria

This final rule retroactively amends 24 CFR 200 Subpart N, in order to preclude conflict with the Public Housing Development regulation 24 CFR 841. The preamble to 24 CFR 841 stated that these conforming amendments would be made to 24 CFR 200 Subpart N, effective October 1, 1980, the effective date of the 24 CFR 841.

With the final rule at 24 CFR 841, effective October 1, 1980, each program regulation implementing the United States Housing Act of 1937 now sets forth the appropriate program site selection requirements. This conforming amendment (final rule), therefore, deletes from 24 CFR 200 Subpart N, all references to the United States Housing Act of 1937 and its programs.

(Sec. 7(o) of the Department of HUD Act, 42 U.S.C. 3535(o); Section 324 of the Housing and Community Development Amendments of 1978)

Issued at Washington, D.C., November 6, 1980.

Moon Landrieu,

Secretary, Department of Housing and Urban Development.

[FR Doc. 80-36027 Filed 11-18-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-237-76]

Indirect Foreign Tax Credit for Domestic Corporations Required To Include Amounts in Gross Income With Respect to Certain Third-Tier Corporations Under Section 951

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the foreign tax credit for domestic corporate shareholders of certain foreign corporations. These regulations would amend the existing regulations to conform them to changes made to the applicable law by the Tax Reform Act of 1976. They would affect all domestic corporations required to include certain amounts in gross income with respect to third-tier controlled foreign corporations.

DATES: Written comments and requests for a public hearing must be delivered by January 19, 1981. The amendments are proposed to be effective for taxable years beginning after December 31, 1976.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T, (LR-237-76) Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Diane L. Renfro of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3289, not a toll-free number.

SUPPLEMENTARY INFORMATION:**Background**

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 960 of the Internal Revenue Code (relating to special rules for foreign tax credit). These amendments are proposed to conform the regulations to section 1037 of the Tax Reform Act of 1976 (90 Stat. 1633) and are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Foreign Tax Credit Under Section 960

Section 960 of the Code provides that domestic corporations which are required to include amounts attributable to the earnings and profits of certain controlled foreign corporations in their gross incomes under section 951(a), shall be deemed to have paid a portion of the foreign taxes paid, accrued, or, in some instances, deemed paid by such controlled foreign corporations on or with respect to their earnings and profits.

1976 Act Changes To Section 960

Prior to amendment by the Tax Reform Act of 1976, the credit provisions of section 960 were applicable to first- and second-tier corporations only. Section 1037 of the Tax Reform Act of 1976 extended this credit to third-tier corporations. In addition, section 1037 changed the ownership requirement for qualification as a second-tier corporation from 50 percent to 10 percent.

Rules Unchanged

These proposed regulations would amend §§ 1.960-1, 1.960-2, 1.960-3 and 1.960-7 of the existing regulations by making conforming changes. The amendments would make those rules applicable to amounts included in the gross income of a domestic corporation under section 951 with respect to third-tier corporations. In order to so extend the existing rules, the proposed amendments revised the above mentioned sections and add several new examples relating to third-tier corporations.

Formulas Added

The proposed regulations would add a new paragraph (g) to § 1.960-2 which provides formulas for determining a domestic corporation's section 902 and 960 credits when amounts previously included in the domestic corporation's gross income under section 951 are distributed through a chain of ownership. These formulas were added

to further illustrate the principles of this section. Formulas have also been added to the new examples. Comments are sought as to whether these formulas are helpful.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

Drafting Information

The principal author of these proposed regulations is Diane L. Renfro of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Proposed amendments to the regulations

The proposed amendments to 26 CFR Part 1 are as follows:

Paragraph 1. Section 1.960-1 (except for paragraph (c)(4), examples 1 and 2) is revised as set forth below.

§ 1.960-1 Foreign tax credit with respect to taxes paid on earnings and profits of controlled foreign corporations.

(a) *Scope of regulations under section 960.* This section prescribes rules for determining the foreign income taxes deemed paid under section 960(a)(1) by a domestic corporation which is required under section 951 to include in gross income an amount attributable to a first-, second-, or third-tier corporation's earnings and profits. Section 1.960-2 prescribes rules for applying section 902 to dividends paid by a third-, second-, or first-tier corporation from earnings and profits attributable to an amount which is, or has been, included in gross income under section 951. Section 1.960-3 provides special rules for the application of the gross-up provisions of section 78 where an amount is included in gross income under section 951. Section 1.960-4 prescribes rules for increasing the applicable foreign tax credit limitation under section 904(a) of the domestic corporation for the taxable year in which it receives a distribution of

earnings and profits in respect of which it was required under section 951 to include an amount in its gross income for a prior taxable year. Section 1.960-5 prescribes rules for disallowing a deduction for foreign income taxes for such taxable year of receipt where the domestic corporation received the benefits of the foreign tax credit for such previous taxable year of inclusion. Section 1.960-6 provides that the excess of such an increase in the applicable limitation under section 904(a) over the tax liability of the domestic corporation for such taxable year of receipt results in an overpayment of tax. Section 1.960-7 prescribes the effective dates for application of these rules.

(b) *Definitions.* For purposes of section 960 and §§ 1.960-1 through 1.960-7—

(1) *First-tier corporation.* The term "first-tier corporation" means a foreign corporation at least 10 percent of the voting stock of which is owned by the domestic corporation described in paragraph (a) of this section.

(2) *Second-tier corporation.* In the case of amounts included in the gross income of the taxpayer under section 951—

(i) For taxable years beginning before January 1, 1977, the term "second-tier corporation" means a foreign corporation at least 50 percent of the voting stock of which is owned by such first-tier corporation.

(ii) For taxable years beginning after December 31, 1976, the term "second-tier corporation" means a foreign corporation at least 10 percent of the voting stock of which is owned by such first-tier corporation.

(3) *Third-tier corporation.* In the case of amounts included in the gross income of a domestic shareholder under section 951 for taxable years beginning after December 31, 1976, the term "third-tier corporation" means a foreign corporation at least 10 percent of the voting stock of which is owned by such second-tier corporation.

(4) *Immediately lower-tier corporation.* In the case of a first-tier corporation the term "immediately lower-tier corporation" means a second-tier corporation. In the case of a second-tier corporation, the term "immediately lower-tier corporation" means a third-tier corporation. In the case of a third-tier corporation, the term "immediately lower-tier corporation" means a fourth-tier corporation.

(5) *Foreign income taxes.* The term "foreign income taxes" means income, war profits, and excess profits taxes, and taxes included in the term "income, war profits, and excess profits taxes" by reason of section 903, imposed by a

foreign country or a possession of the United States.

(c) *Amount of foreign income taxes deemed paid by domestic corporation in respect of earnings and profits of foreign corporation attributable to amount included in income under section 951—*

(1) *In general.* For purposes of section 901—

(i) If for the taxable year there is included in the gross income of a domestic corporation under section 951 an amount attributable to the earnings and profits of a first- or second-tier corporation for any taxable year, the domestic corporation shall be deemed to have paid the same proportion of the total foreign income taxes paid, accrued, or deemed (in accordance with paragraph (b) of § 1.960-2) to be paid, by such foreign corporation on or with respect to its earnings and profits for its taxable year as the amount so included in the gross income of the domestic corporation under section 951 with respect to such foreign corporation bears to the total earnings and profits of such foreign corporation for its taxable year. This paragraph (c)(1)(i) shall not apply to amounts included in the gross income of the domestic corporation under section 951 with respect to the second-tier corporation unless the percentage-of-voting-stock requirement of section 902(b)(3)(A) is satisfied.

(ii) If for the taxable year there is included in the gross income of a domestic corporation under section 951 an amount attributable to the earnings and profits of a third-tier corporation for any taxable year, the domestic corporation shall be deemed to have paid the same proportion of the total foreign income taxes paid or accrued by such foreign corporation on or with respect to its earnings and profits for its taxable year as the amount so included in the gross income of the domestic corporation under section 951 with respect to such foreign corporation bears to the total earnings and profits of such foreign corporation. This paragraph (c)(1)(ii) shall not apply unless the percentage-of-voting-stock requirement of section 902(b)(3)(B) is satisfied.

(iii) In applying paragraph (c)(1)(i) of this section to a first- or second-tier corporation which for the taxable year has income excluded under section 959(b), paragraph (c)(3) of this section shall apply for purposes of excluding certain earnings and profits of such foreign corporation and foreign income taxes, if any, attributable to such excluded income.

(iv) This paragraph (c)(1) applies whether or not the first-, second-, or third-tier corporation makes a distribution for the taxable year of its

earnings and profits which are attributable to the amount included in the gross income of the domestic corporation under section 951.

(v) This paragraph (c)(1) does not apply to an increase in current earnings invested in United States property which, but for paragraph (e) of § 1.963-3 (applied as if section 963 had not been repealed by the Tax Reduction Act of 1975), would be included in the gross income of the domestic corporation under section 951(a)(1)(B) but which, pursuant to such paragraph, counts toward a minimum distribution for the taxable year.

(2) *Taxes paid or accrued on or with respect to earnings and profits of foreign corporation.* For purposes of paragraph (c)(1) of this section, the foreign income taxes paid or accrued by a first-, second-, or third-tier corporation on or with respect to its earnings and profits for its taxable year shall be the total amount of the foreign income taxes paid or accrued by such foreign corporation for such taxable year.

(3) *Exclusion of earnings and profits and taxes of a first-, second-, or third-tier corporation having income excluded under section 959(b).* If in the case of a first-, second-, or third-tier corporation to which paragraph (c)(1)(i) or (c)(1)(ii) of this section is applied—

(i) The earnings and profits of such foreign corporation for its taxable year consist of (A) earnings and profits attributable to dividends received from an immediately lower-tier corporation which are attributable to amounts included in the gross income of a domestic corporation under section 951 with respect to the immediately lower- or lower-tier corporations, and (B) other earnings and profits, and

(ii) The effective rate of foreign income taxes paid or accrued by such foreign corporation in respect to the dividends to which its earnings and profits described in paragraph (c)(3)(i)(A) of this section are attributable is higher or lower than the effective rate of foreign income taxes paid or accrued by such foreign corporation in respect to the income to which its earnings and profits described in paragraph (c)(3)(i)(B) of this section are attributable,

then, for purposes of applying paragraph (c)(1)(i) or (c)(1)(ii) of this section to the foreign income taxes paid, accrued, or deemed to be paid, by such foreign corporation on or with respect to its earnings and profits for such taxable year, the earnings and profits of such foreign corporation for such taxable year shall be considered not to include the earnings and profits described in

paragraph (c)(3)(1)(A) of this section and only the foreign income taxes paid, accrued, or deemed to be paid, by such foreign corporation in respect to the income to which its earnings and profits described in paragraph (c)(3)(ii)(B) of this section are attributable shall be taken into account. For purposes of applying this paragraph (c)(3), the effective rate of foreign income taxes paid or accrued in respect to income shall be determined consistently with the principles of paragraphs (b)(3) (iv) and (viii) and (c) of § 1.954-1. Thus, for example, the effective rate of foreign income taxes paid or accrued in respect to dividends received by such foreign corporation shall be determined by taking into account any intercorporate dividends received deduction allowed to such corporation for such dividends.

(4) *Illustrations.* * * *

Example (3). Domestic corporation N owns all the one class of stock of controlled foreign corporation A, which owns all the one class of stock of controlled foreign corporation B, which owns all the one class of stock of foreign corporation C. All such corporations use the calendar year as the taxable year. For 1978, N Corporation is required to include in gross income \$80 attributable to the earnings and profits of C Corporation for such year, \$45 attributable to the earnings and profits of B Corporation for such year and \$50 attributable to the earnings and profits of A Corporation for such year. Neither C Corporation nor B Corporation distributes any earnings and profits for 1978. The foreign income taxes which are deemed paid by N Corporation for such year under section 960(a)(1) are determined as follows upon the basis of the facts assumed:

C Corporation (third-tier corporation):	
Pretax earnings of C Corporation	\$150.00
Foreign income taxes (40%)	60.00
Earnings and profits	90.00
Amounts required to be included in N Corporation's gross income under section 951	80.00
Dividends paid to B Corporation	0
Foreign income taxes paid on or with respect to earnings and profits of C Corporation	60.00
B Corporation (second-tier corporation):	
Pretax earnings of B Corporation	100.00
Foreign income taxes (40%)	40.00
Earnings and profits	60.00
Amount required to be included in N Corporation's gross income under section 951	45.00
Dividends paid to A Corporation	0
Foreign income taxes paid on or with respect to earnings and profits of B Corporation	40.00
A Corporation (first-tier corporation):	
Pretax earnings and profits of A Corporation	100.00
Foreign income taxes (20%)	20.00
Earnings and profits	80.00
Amount required to be included in N Corporation's gross income under section 951	50.00
Dividends paid to N Corporation	0
Foreign income taxes paid on or with respect to earnings and profits of A Corporation	20.00
N Corporation (domestic corporation):	
Foreign income taxes deemed paid by N Corporation under section 960(a)(1):	
Taxes of C Corporation $\$80/\$90 \times \$60$	53.33
Taxes of B Corporation $\$45/\$60 \times \$40$	30.00
Taxes of A Corporation $\$50/\$80 \times \$20$	12.50
Total taxes deemed paid under section 960(a)(1)	95.83

Example (4). Domestic corporation N owns all the one class of stock of controlled foreign corporation A, which owns 5 percent of the one class of stock of controlled foreign corporation B. N Corporation also directly owns 95 percent of the one class of stock of B Corporation. All such corporations use the calendar year as the taxable year. For 1978, N Corporation is required under section 951 to include in gross income \$60 attributable to the earnings and profits of B Corporation and \$79.20 attributable to the earnings and profits of A Corporation. For 1978, B Corporation distributes \$19 to N Corporation and \$1 to A Corporation, but A Corporation makes no distribution to N Corporation. The foreign income taxes paid by N Corporation for such year under section 960(a)(1) are determined as follows upon the basis of the facts assumed:

B Corporation (first-tier corporation):	
Pretax earnings and profits	\$100.00
Foreign income taxes (40%)	40.00
Earnings and profits	60.00
Amount required to be included in N Corporation's gross income under section 951 with respect to B Corporation	60.00
A Corporation (first-tier corporation):	
Pretax earnings and profits (including \$1 dividend from B Corporation)	100.00
Foreign income taxes (20%)	20.00
Earnings and profits	80.00
Amount required to be included in N Corporation's gross income with respect to A Corporation (\$99 - [\$99 × 0.20])	79.20
N Corporation (domestic corporation):	
Foreign income taxes deemed paid by N Corporation under section 960(a)(1) with respect to—	
B Corporation (\$60 × 0.95) / \$60 × 40%	38.00
A Corporation (\$79.20 / \$80 × 20%)	19.80
Total taxes deemed paid under section 960(a)(1)	57.80

Example (5). Domestic corporation N owns all the one class of stock of controlled foreign corporation A, which owns all the one class of stock of controlled foreign corporation B. All such corporations use the calendar year as the taxable year. For 1978, N Corporation is required under section 951 to include in gross income \$175 attributable to the earnings and profits of A Corporation for such year. For 1978, B Corporation has earnings and profits of \$225, on which it pays foreign income taxes of \$75. In 1978, B Corporation distributes \$150, which, under paragraph (b) of § 1.960-2, consists of \$100 to which section 902(b)(1) does not apply (from B Corporation's earnings and profits attributable to an amount required under section 951 to be included in N Corporation's gross income with respect to B Corporation) and \$50 to which section 902(b)(1) applies (from B Corporation's other earnings and profits). The country under the laws of which A Corporation is incorporated imposes an income tax of 40 percent on all income but exempts from tax dividends received from a subsidiary corporation. A Corporation makes no distribution for 1978. Under paragraph (b) of § 1.960-2, A Corporation is deemed to have paid \$25 (\$50 / \$150 × \$75) of the \$75 foreign income taxes paid by B Corporation on its pretax earnings and profits of \$225. The foreign income taxes deemed paid by N Corporation for 1978 under section 960(a)(1) with respect to A Corporation are determined

as follows upon the basis of the following assumed facts:

Pretax earnings and profits of A Corporation:	
Dividends received from B Corporation	\$150.00
Other income	250.00
Total pretax earnings and profits	400.00
Foreign income taxes:	
On dividends received from B Corporation	0
On other income (\$250 × 0.40)	100.00
Total foreign income taxes	100.00
Earnings and profits:	
Attributable to dividends received from B Corporation to which sec. 902(b) does not apply	100.00
Attributable to other income:	
Attributable to dividends received from B Corporation to which sec. 902(b)(1) applies	\$50.00
Attributable to other income (\$250 - \$100 [\$250 × 0.40])	150.00
Total earnings and profits	300.00
Foreign income taxes deemed paid by N Corporation under sec. 960(a)(1) with respect to A Corporation:	
Tax paid by A Corporation in respect to its income other than dividends received from B Corporation to which sec. 902(b)(1) does not apply (\$175 / \$200 × \$100)	87.50
Tax of B Corporation deemed paid by A Corporation under sec. 902(b)(1) in respect to such income (\$175 / \$200 × \$25)	21.88
Total foreign income taxes deemed paid by N Corporation under sec. 960(a)(1) with respect to A Corporation	109.38

(d) **Time for stock ownership**—(1) *In general.* For the purposes of applying paragraph (c) of this section, the stock ownership requirements referred to in paragraph (b) (1), (2), and (3) of this section must be satisfied on the last day in such taxable year of such first-, second-, or third-tier corporation, as the case may be, on which such foreign corporation is a controlled foreign corporation. For paragraph (c) to apply to a second-tier corporation the requirements of paragraph (b) (1) and (2) must be met on such date. In order for paragraph (c) to apply to a third-tier corporation the requirements of paragraph (b) (1), (2), and (3) must be met on such date.

(2) **Illustrations.** The application of this paragraph may be illustrated by the following examples:

Example (1). Domestic corporation N is required for its taxable year ending June 30, 1978, to include in gross income under section 951 an amount attributable to the earnings and profits of controlled foreign corporation A for 1977 and another amount attributable to the earnings and profits of controlled foreign corporation B for such year. Corporations A and B use the calendar year as the taxable year. Such amounts are required to be

included in N Corporation's gross income by reason of its ownership of stock in A Corporation and in turn by A Corporation's ownership of stock in B Corporation. Corporation A is a controlled foreign corporation throughout 1977, but B Corporation is a controlled foreign corporation only from January 1, 1977, through September 30, 1977. Corporation N may obtain credit under section 960(a)(1) for the year ending June 30, 1978, for foreign income taxes paid by A Corporation for 1977, only if N Corporation owns at least 10 percent of the voting stock of A Corporation on December 31, 1977. Corporation N may obtain credit under section 960(a)(1) for the year ending June 30, 1978, for foreign income taxes paid by B Corporation for 1977, only if on September 30, 1977, N Corporation owns at least 10 percent of the voting stock of A Corporation and A Corporation owns at least 10 percent of the voting stock of B Corporation.

Example (2). The facts are the same as in example (1), except that A Corporation is a controlled foreign corporation only from January 1, 1977, through March 31, 1977. Corporation N may obtain credit under section 960(a)(1) for the year ending June 30, 1978, for foreign income taxes paid by A Corporation for 1977, only if N Corporation owns at least 10 percent of the voting stock of A Corporation on March 31, 1977. Corporation N may obtain credit under section 960(a)(1) for the year ending June 30, 1978, for foreign income taxes paid by B Corporation for 1977, only if on September 30, 1977, N Corporation owns at least 10 percent of the voting stock of A Corporation and A Corporation owns at least 10 percent of the voting stock of B Corporation.

(e) **Information to be furnished.** If the credit for foreign income taxes claimed under section 901 includes taxes deemed paid under section 960(a)(1), the domestic corporation must furnish the same information with respect to the taxes so deemed paid or accrued by it and for which credit is claimed. See § 1.905-2. For other information required to be furnished by the domestic corporation for the annual accounting period of certain foreign corporations ending with or within such corporation's taxable year, see section 6038 and § 1.6038-2.

(f) **Reduction of foreign income taxes paid or deemed paid.** For reduction of the amount of foreign income taxes paid or deemed paid by a foreign corporation for purposes of section 960, see section 6038(b) and the regulations thereunder, relating to failure to furnish information with respect to certain foreign corporations.

(g) **Amounts under section 951 treated as distributions for purposes of applying effective dates.** For purposes of applying section 902 in determining the amount of credit allowed under section 960 (a)(1) and paragraph (c) of this section, the effective date provisions of the

regulations under section 902 shall apply, and for purposes of so applying the regulations under section 902, any amount attributable to the earnings and profits for the taxable year of a first-, second-, or third-tier corporation which is included in the gross income of a domestic corporation under section 951 shall be treated as a distribution received by such domestic corporation on the last day in such taxable year on which such foreign corporation is a controlled foreign corporation.

(h) *Source of income and country to which tax is deemed paid*—(1) *Source of income.* For purposes of section 904—

(i) The amount included in gross income of a domestic corporation under section 951 for the taxable year with respect to a first-, second-, or third-tier corporation, plus

(ii) Any section 78 dividend to which such section 951 amount gives rise by reason of taxes deemed paid by such domestic corporation under section 960 (a) (1),

shall be deemed to be derived from sources within the foreign country or possession of the United States under the laws of which such first-tier corporation, or the first-tier corporation in the same chain of ownership as such second- or third-tier corporation, is created or organized.

(2) *Country to which taxes deemed paid.* For purposes of section 904, the foreign income taxes paid by the first-, second-, or third-tier corporation and deemed to be paid by the domestic corporation under section 960(a)(1) by reason of the inclusion of the amount described in paragraph (h)(1)(i) of this section in the gross income of such domestic corporation shall be deemed to be paid to the foreign country or possession of the United States under the laws of which such first-tier corporation, or the first-tier corporation in the same chain of ownership as such second- or third-tier corporation, is created or organized.

(3) *Illustration.* The application of this paragraph may be illustrated by the following example:

Example. Domestic corporation N owns all the one class of stock of controlled foreign corporation A, incorporated under the laws of foreign country X, which owns all the one class of stock of controlled foreign corporation B, incorporated under the laws of foreign country Y. All such corporations use the calendar year as the taxable year. For 1978, N Corporation is required under section 951 to include in gross income \$45 attributable to the earnings and profits of B Corporation for such year and \$50 attributable to the earnings and profits of A Corporation for such year. For 1978, because of the inclusion of such amounts in gross income, N Corporation is deemed under

section 960(a)(1) and paragraph (c) of this section to have paid \$15 of foreign income taxes paid by B Corporation for such year and \$10 of foreign income taxes paid by A Corporation for such year. For purposes of section 904, the amount (\$95) included in N Corporation's gross income under section 951 attributable to the earnings and profits of corporations A and B is deemed to be derived from sources within country X, and the section 78 dividend consisting of the foreign income taxes (\$25) deemed paid by N Corporation under section 960(a)(1) with respect to such \$95 is deemed to be derived from sources within country X. The \$25 of foreign income taxes so deemed paid by N Corporation are deemed to be paid to country X for purposes of section 904.

Par. 2. Examples (1)–(7) under § 1.960–2 (e) are recodified under § 1.960–2(f) and the rest of § 1.960–2 is revised to read as follows:

§ 1.960–2 Interrelation of section 902 and section 960 when dividends are paid by third-, second-, or first-tier corporation.

(a) *Scope of this section.* This section prescribes rules for the application of section 902 in a case where dividends are paid by a third-, second-, or first-tier corporation, as the case may be, from its earnings and profits for a taxable year when an amount attributable to such earnings and profits is included in the gross income of a domestic corporation under section 951, or when such earnings and profits are attributable to an amount excluded from the gross income of such foreign corporation under section 959(b) and § 1.959–2, with respect to the domestic corporation. In making determinations under this section, any portion of a distribution received from a first-tier corporation by the domestic corporation which is excluded from the domestic corporation's gross income under section 959(a) and § 1.959–1, or any portion of a distribution received from an immediately lower-tier corporation by the third-, second-, or first-tier corporation which is excluded from such foreign corporation's gross income under section 959(b) and § 1.959–2, shall be treated as a dividend for purposes of taking into account under section 902 any foreign income taxes paid by such third-, second-, or first-tier corporation which are not deemed paid by the domestic corporation under section 960(a)(1) and § 1.960–1.

(b) *Application of section 902(b) to dividends received from an immediately lower-tier corporation.* For purposes of paragraph (a) of this section and paragraph (c)(1)(i) of § 1.960–1, section 902(b) shall apply to all dividends received by the first- or second-tier corporation from the immediately lower-tier corporation other than dividends

attributable to earnings and profits of such immediately lower-tier corporation in respect of which an amount is, or has been, included in the gross income of a domestic corporation under section 951 with respect to such immediately lower-tier corporation.

(c) *Application of section 902(a) to dividends received by domestic corporation from first-tier corporation.* For purposes of paragraph (a) of this section, section 902(a) shall apply to all dividends received by the domestic corporation for its taxable year from the first-tier corporation other than dividends attributable to earnings and profits of such first-tier corporation in respect of which an amount is, or has been, included in the gross income of a domestic corporation under section 951 with respect to such first-tier corporation.

(d) *Allocation of earnings and profits of a first- or second-tier corporation having income excluded under section 959(b)*—(1) *First-tier corporations.* If the first-tier corporation for its taxable year receives from the second-tier corporation dividends to which, in accordance with paragraph (b) of this section, section 902(b)(1) or 902(b)(2) applies and other dividends to which such section does not apply, then in applying section 902(a) pursuant to this section and in applying section 960(a)(1) pursuant to § 1.960–1(c)(1)(i), with respect to the foreign income taxes paid and deemed paid by the second-tier corporation which are deemed paid by the first-tier corporation for such taxable year under section 902(b)(1)—

(i) The earnings and profits of the first-tier corporation for such taxable year shall be considered not to include its earnings and profits which are attributable to the dividends to which section 902(b)(1) does not apply (in determining the domestic corporation's credit for the taxes paid by the second-tier corporation) or which are attributable to the dividends to which sections 902(b)(1) and 902(b)(2) do not apply (in determining the domestic corporation's credit for taxes deemed paid by the second-tier corporation) and

(ii) For the purposes of so applying section 902(a), distributions to the domestic corporation from such earnings and profits which are attributable to the dividends to which section 902(b)(1) does not apply (in determining the domestic corporation's credit for taxes paid by the second-tier corporation) or which are attributable to the dividends to which sections 902(b)(1) and 902(b)(2) do not apply (in determining the domestic corporation's credit for taxes deemed paid by the second-tier

corporation) shall not be treated as a dividend.

(a) *Second-Tier corporations.* If the second-tier corporation for its taxable year receives dividends from the third-tier corporation to which, in accordance with paragraph (b) of this section, section 902(b)(2) applies and other dividends to which such section does not apply, then in applying section 902(b)(1) pursuant to this section, and in applying section 960(a)(1) pursuant to paragraph (c)(1)(i) of § 1.960-1, with respect to the foreign taxes deemed paid by the second-tier corporation for such taxable year under section 902(b)(2)—

(i) The earnings and profits of the second-tier corporation for such taxable year shall be considered not to include its earnings and profits which are attributable to such other dividends from the third-tier corporation, and

(ii) For the purposes of so applying section 902(b)(1), distributions to the first-tier corporation from such earnings and profits which are attributable to such other dividends from the third-tier corporation shall not be treated as a dividend.

(e) *Separate determinations under sections 902(a), 902(b)(1), and 902(b)(2) in the case of a first-, second-, or third-tier corporation having income excluded under section 959(b).* If in the case of a first-, second-, or third-tier corporation to which paragraph (b) or (c) of this section is applied—

(1) The earnings and profits of such foreign corporation for its taxable year consist of—

(i) Dividends received from an immediately lower-tier corporation which are attributable to amounts included in the gross income of a domestic corporation under section 951 with respect to the immediately lower- or lower-tier corporations, and

(ii) Other earnings and profits, and
(2) The effective rate of foreign income taxes paid or accrued by such foreign corporation on the dividends described in paragraph (e)(1)(i) of this section is higher or lower than the effective rate of foreign income taxes attributable to its earnings and profits described in paragraph (e)(1)(ii) of this section,

then, for purposes of applying paragraphs (b) or (c) of this section to dividends paid by such foreign corporation to the domestic corporation or the first- or second-tier corporation, sections 902(a), 902(b)(1), and 902(b)(2) shall be applied separately to the portion of the dividend which is attributable to the earnings and profits described in paragraph (e)(1)(i) of this section and separately to the portion of

the dividend which is attributable to the earnings and profits described in paragraph (e)(1)(ii) of this section. In making a separate determination with respect to the earnings and profits described in paragraph (e)(1)(i) or (e)(1)(ii) of this section, only the foreign income taxes paid or accrued (or, in the case of earnings and profits of a first- or second-tier corporation described in paragraph (e)(1)(ii) of this section, deemed to be paid) by such foreign corporation on the income attributable to such earnings and profits shall be taken into account. For purposes of applying this paragraph (e), no part of the foreign income taxes paid, accrued, or deemed to be paid which are attributable to the earnings and profits described in paragraph (e)(1)(ii) of this section shall be attributed to the dividend described in paragraph (e)(1)(ii) of this section; and no part of the foreign income taxes paid or accrued on the dividend described in paragraph (e)(1)(i) of this section shall be attributed to the earnings and profits described in paragraph (e)(1)(ii) of this section. Furthermore, the effective rate of foreign income taxes paid or accrued shall be determined consistently with the principles of paragraph (b)(3)(iv) and (viii) and (c) of § 1.954-1. Thus, for example, the effective rate of foreign income taxes on dividends received by such foreign corporation shall be determined by taking into account any intercorporate dividends received deduction allowed to such corporation for such dividends.

(f) *Illustrations.* The application of this section may be illustrated by the following examples. In all of the examples other than examples (6), (7), (9) and (10), it is assumed that the effective rate of foreign income taxes paid or accrued by the first- or second-tier corporation, as the case may be, in respect to dividends received from the immediately lower-tier corporation is the same as the effective rate of foreign income taxes paid or accrued by the first- or second-tier corporation with respect to its other income: * * *

Example (8). Domestic corporation N owns all the one class of stock of controlled foreign corporation A, which owns all the one class of stock of controlled foreign corporation B, which owns all the one class of stock of controlled foreign corporation C. All such corporations use the calendar year as the taxable year. For 1978, N Corporation is required under section 951 to include \$50 attributable to the earnings and profits of C Corporation and \$15 attributable to the earnings and profits of B Corporation in its gross income. N Corporation is not required to include any amount in its gross income with respect to A Corporation under section 951 in 1978. For such year, C Corporation

distributes \$75 to B Corporation. B Corporation in turn distributes \$60 of its earnings and profits to A Corporation. A Corporation has no other earnings and profits for 1978 and distributes \$45 of its earnings and profits to N Corporation. The foreign income taxes deemed paid by N Corporation under section 960(a)(1) and section 902(a) are determined as follows on the basis of the facts assumed:

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C Corporation (third-tier corporation):

Pretax earnings and profits.....\$150.00
 Foreign taxes paid by C Corporation (30%)..... 45.00
 Earnings and profits..... 105.00

Amount required to be included

in gross income of N

Corporation under section

951 with respect to C

Corporation..... 50.00

Dividend to B Corporation..... 75.00

Dividend from earnings and profits

to which section 902 (b) (2) does

not apply (attributable to

amounts included in N Corporation's

gross income under section 951 with respect to

C Corporation)..... \$50.00

Dividend from earnings and profits

to which section 902 (b) (2)

applies (attributable to

amounts not included in N

Corporation's gross income with

respect to C Corporation)..... 25.00

Amount of foreign income taxes of

C Corporation deemed paid by

B Corporation under section 902

(b) (2) and § 1.960-2 (b):

Dividend to B Corporation

less portion of dividend

from earnings included in

N Corporation's gross income

under section 951 with respect

to C Corporation

Earnings and profits of

C Corporation

(\$25/\$105 X \$45)..... 10.71

X Taxes paid by
C Corporation

B Corporation (second-tier corporation):

Pretax earnings and profits

Dividend from C Corporation..... 75.00

Other earnings and profits..... 225.00

Total pretax earnings and profits..... 300.00

§ 1.960-2 (f) Example (8)

Foreign income taxes paid by
 B Corporation (40%).....\$120.00
 Earnings and profits..... 180.00

Earnings and profits attributable
 to amounts to which sec-
 tion 902 (b) (2) does not apply
 (amounts included in N Corporation's
 gross income under section 951 with
 respect to
 C Corporation) ($\$50 - (\$50 \times .40)$)...\$30.00

Other earnings and profits.....150.00

Earnings and profits of B Corporation
 after exclusion for amounts to which
 section 902 (b) (2) does not
 apply (amounts attributable to
 earnings and profits which are
 included in N Corporation's gross
 income under section 951 with respect
 to C Corporation) ($\$180 - \30)..... 150.00

Amount to be included in gross income
 under section 951 of N Corporation
 with respect to B Corporation..... 15.00

Amount of dividend to A Corporation..... 60.00

Dividend from earnings and profits
 to which section 902 (b) (2)
 does not apply (attributable to
 amounts included in N Corporation's gross
 income under section 951 with
 respect to C Corporation)..... 30.00

Dividend from earnings and profits
 to which section 902 (b) (1)
 does not apply (attributable to
 amounts included in N Corporation's
 gross income under section 951
 with respect to B Corporation)..... 15.00

Dividend from other earnings and profits
(attributable to amounts not included
in N Corporation's gross income under
section 951 with respect to B
or C Corporation)..... \$15.00

Foreign income taxes of B Corporation deemed paid
by A Corporation under section 902 (b) (1):

Dividend to A Corporation less portion of dividend from earnings included in N Corporation's gross income under section 951 with respect to B Corporation	X Taxes paid by B Corporation
Earnings and profits of B Corporation (\$45/\$180 X \$120).....	\$30.00

Foreign income taxes (of C Corporation) deemed paid by
B Corporation deemed paid by A Corporation under
section 902 (b) (1):

Dividend to A Corporation less portion of dividend from earnings included in N Corporation's gross income under section 951 with respect to B Corporation and C Corporation	X Taxes paid by C Corporation which are deemed paid by B Corporation
Earnings and profits of B less earnings and profits attributable to amounts included in N Corporation's gross income with respect to C Corporation (\$15/\$150 X \$10.71).....	1.07

A Corporation (first-tier corporation):

Pretax earnings and profits of A Corporation:

Dividend from B Corporation.....	60.00
Other earnings and profits.....	0
Total pretax earnings and profits.....	60.00

Foreign income taxes paid by A Corporation

10%.....	6.00
Earnings and profits.....	54.00

Earnings and profits attributable to amounts to which section 902 (b) (2) does not apply (attributable to amounts previously included in N Corporation's gross income under section 951 with respect to C Corporation) \$27.00
 (\$30 - (\$30 X .10)).....

Earnings and profits attributable to amounts to which section 902 (b) (1) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to B Corporation) 13.50
 (\$15 - (\$15 X .10)).....

Other earnings and profits
 (\$15 - (\$15 X .10))..... 13.50

Earnings and profits of A Corporation after exclusion for amounts to which section 902 (b) (1) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to B Corporation) \$40.50
 (\$54.00 - \$13.50).....

Earnings and profits of A Corporation after exclusion for amounts to which sections 902 (b) (1) and (2) do not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to B or C Corporation) 13.50
 (\$40.50 - \$27.00).....

Dividend to N Corporation 45.00

Dividend from earnings and profits to which section 902 (b) (2) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to C Corporation) 27.00

Dividend from earnings and profits to which section 902 (b) (1) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to B Corporation) 13.50

§ 1.960-2 (f) Example (8)

Dividend from earnings and profits to which section 902 (a) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to A Corporation)..... 0

Dividend from other earnings and profits (attributable to amounts not included in N Corporation's gross income under section 951 with respect to A, B, or C Corporation).....\$4.50

N Corporation (domestic corporation):

Foreign income taxes deemed paid by N Corporation under section 960 (a) (1) with respect to C Corporation

Amount included in N Corporation's gross income under section 951 with respect to C Corporation	X	Taxes paid by C Corporation
<u>Earnings and profits of C Corporation</u>		
(\$50/\$105 X \$45.00).....		\$21.43

Foreign income taxes deemed paid by N Corporation under section 960 (a) (1) with respect to B Corporation... 11.07

Taxes paid by B Corporation

Amount included in N Corporation's gross income under section 951 with respect to B Corporation	X	Taxes paid by B Corporation
<u>Earnings and profits of B Corporation</u>		
(\$15/\$180 X \$120).....	10.00	

Taxes deemed paid by B Corporation

Amount included in N Corporation's gross income under section 951 with respect to B Corporation	X	Taxes paid by C Corporation which are deemed paid by B Corporation
<u>Earnings and profits of B Corporation less earnings and profits attributable to amounts included in N Corporation's gross income with respect to C Corporation</u>		
(\$15/\$150 X \$10.71).....	1.07	

Total taxes deemed paid by N Corporation under section 960 (a) (1).....\$32.50

Foreign income taxes deemed
paid by N Corporation under
section 902 (a):

Taxes paid by A Corporation:

Dividend to N Corporation
less portion of dividend
from earnings included in
N Corporation's gross in-
come under section 951
with respect to A

Corporation	X	Taxes paid by
Earnings and profits of		A Corporation
A Corporation		

(\$45/\$54 X \$6).....\$5.00

Taxes paid by B Corporation
deemed paid by A
Corporation:

Dividend to N Corporation
less portion of dividend from
earnings included in N
Corporation's gross income
under section 951 with respect
to A and B Corporations

X	Taxes paid by B
	Corporation which are
	deemed paid by
	A Corporation

(\$31.50/\$40.50 X \$30.00)..... 23.33

Taxes (of C Corporation) deemed paid
by B Corporation deemed paid by A Corporation:

Dividend to N Corporation less
portion of dividend from earnings
and included in N Corporation's
gross income under section 951
with respect to A, B, and
C Corporations

Earnings and profits of A	X	Taxes deemed paid by B
Corporation less earnings and		Corporation which are
profits attributable to amounts		deemed paid by A
included in N Corporation's gross		Corporation
income with respect to B and C		
Corporation		

(\$4.50/\$13.50 X \$1.07)..... .36

Total taxes deemed paid by N Corporation
 under section 902 (a) \$13.69
 Total foreign income taxes deemed paid
 by N Corporation under section 901. . . \$61.19

Example (9). Domestic corporation N owns all the one class of stock of controlled foreign corporation A, which owns all the one class of stock of controlled foreign corporation B which owns all the one class of stock of controlled foreign corporation C. All such corporations use the calendar year as the taxable year. For 1978, N Corporation is required to include in its gross income under section 951, \$50 attributable to the earnings and profits of C Corporation and \$100 attributable to the earnings and profits of B Corporation. N Corporation is not required to include any amount in its gross income under section 951 with respect to A Corporation. For such year, C Corporation distributes \$75 to B Corporation. The country under the laws of which B Corporation is incorporated imposes an income tax of 10 percent on dividends from subsidiaries and 40 percent on other earnings and profits. For 1978, B Corporation distributes \$175 of its earnings and profits to A Corporation. A Corporation has no other earnings and profits for such year and distributes \$130 of its earnings and profits to N Corporation. The foreign income taxes deemed paid by N Corporation under sections 960 (a) (1) and 902 (a) are determined as follows on the basis of the facts assumed:

§ 1.960-2 (f) Example (9)

C Corporation (third-tier corporation):

Pretax earnings and profits.....\$150.00
 Foreign income taxes paid by C
 Corporation (30%)..... 45.00
 Earnings and profits..... 105.00
 Amount required to be included in
 gross income of N Corporation under
 section 951 with respect to
 C Corporation..... 50.00

Dividend to B Corporation..... 75.00
 Dividend to which section
 902 (b) (2) does not apply
 (attributable to amounts
 included in N Corporation's
 gross income under section
 951 with respect to C
 Corporation).....\$50.00

Dividend to which section 902
 (b) (2) applies (attributable
 to amounts not included in
 N Corporation's gross income under
 section 951 with respect to C
 Corporation) 25.00

Amount of foreign income taxes of
 C Corporation deemed paid by
 B Corporation under section 902
 (b) (2) and § 1.960-2 (b)
 (\$25/\$105 x \$45)10.71
 (for formula see example (8))

B Corporation (second-tier corporation):

Pretax earnings and profits
 Dividend from C Corporation..... 75.00
 Other earnings and profits.....225.00
 Total pretax earnings and profits..... 300.00

Foreign income taxes paid by
 B Corporation..... 97.50

On dividends received from C
 Corporation to which section
 902 (b) (2) does not apply
 (attributable to amounts
 included in N Corporation's
 gross income under section
 951 with respect to C Corporation)
 (\$50 X .10)..... 5.00

On dividend from C Corporation
to which section 902 (b) (2)
applies (attributable to
amounts not included in N
Corporation's gross income
under section 951 with respect
to C Corporation) ($\$25 \times .10$).....\$ 2.50

On other income of B
Corporation ($\$225 \times .40$)..... 90.00

Earnings and profits.....\$202.50

Attributable to dividend to
which section 902 (b) (2)
does not apply (attributable
to amounts included in N
Corporation's gross income
under section 951 with respect
to C Corporation) ($\$50 - \5)..... 45.00

Attributable to dividend from
C Corporation to which section
902 (b) (2) applies (attributable
to amounts not included in N
Corporation's gross income under
section 951 with respect to
C Corporation) ($\$25 - \2.50)..... 22.50

Attributable to other income of
B Corporation ($\$225 - \90)..... 135.00

Earnings and profits after exclusion
of amounts attributable to dividend
to which section 902 (b) (2)
does not apply (attributable
to amounts included in
N Corporation's gross income
under section 951 with respect
to C Corporation) ($\$202.50 - \45)..... 157.50

Amount required to be included in
N Corporation's gross income
under section 951 with respect
to B Corporation..... 100.00

Dividend paid by B Corporation.....\$175.00

Dividend to which section
902 (b) (2) does not apply
(attributable to amounts
included in N Corporation's
gross income under section
951 with respect to C
Corporation).....\$45.00

Dividend to which section
902 (b) (1) does not apply
(attributable to amounts
included in N Corporation's
gross income under section
951 with respect to B
Corporation)..... 100.00

Dividend from other earnings
and profits (attributable to
amounts not included in
N Corporation's gross income
with respect to B or C
Corporation)..... 30.00

Foreign income taxes of B
Corporation deemed paid by
A Corporation under section
902 (b) (1) (separate tax rate
applicable to dividend received
by B Corporation):

Tax paid by B Corporation
on earnings previously
taxed with respect to C
Corporation or lower-tiers
which is deemed paid by
A Corporation:

Portion of dividend to
A Corporation from earn-
ings included in N Corporation's
gross income under section 951
with respect to C Corporation
or lower-tiers

Earnings and profits of
B Corporation included in
N Corporation's gross income
under section 951 with respect
to C Corporation or lower-
tiers

X Tax paid by B Corpo-
ration on dividend received
by B Corporation from
earnings included in
N Corporation's gross
income with respect to
C Corporation or lower-
tiers

(\$45/\$45 X \$5).....\$5.00

Tax paid by B Corporation
on earnings not previously
taxed with respect to
C Corporation or lower-
tiers which is deemed
paid by A Corporation:

Portion of dividend to
A Corporation which is
from earnings not included
in N Corporation's gross
income under section 951
with respect to B Corpo-
ration or lower-tiers

Earnings and profits of
B Corporation not included
in N Corporation's gross
income under section 951
with respect to C Corpo-
ration or lower-tiers

X Tax paid by B Corpo-
ration on earnings
not included in N
Corporation's gross
income with respect
C Corporation or lower-
tiers

(\$30/\$157.50 X \$92.50) 17.62

Foreign income taxes (of C Corporation)
deemed paid by B Corporation deemed paid by

A Corporation under section 902 (b) (1)

(\$30/\$157.50 X \$10.71)..... 2.04
(for formula see example (8))

A Corporation (first-tier corporation):

Pretax earnings and profits

Dividend from B Corporation.....\$175.00

Other income..... 0

Total..... 175.00

Foreign income taxes paid by

A Corporation (20%)..... 35.00

§ 1.960-2 (f) Example (9)

Earnings and profits..... \$140.00

Attributable to dividend to
which section 902 (b) (2)
does not apply (attributable
to amounts included in N
Corporation's gross income
under section 951 with respect
to C Corporation) (\$45 - (\$45
X .20)) \$36.00

Attributable to amounts
to which section 902 (b) (1)
does not apply (attributable
to amounts included in N
Corporation's gross income
under section 951 with respect
to B Corporation) (\$100 - (\$100 X
.20)) 80.00

Attributable to other earnings
and profits (attributable to
amounts not included in N
Corporation's gross income with
respect to B or C Corporation)..... 24.00

Earnings and profits after
exclusion for amounts to
which section 902 (b) (1)
does not apply (attributable
to amounts included in N
Corporation's gross income
under section 951 with respect
to B Corporation) (\$140 - \$80).....60.00

Earnings and profits after
exclusion for amounts to which
sections 902 (b) (1) and 902
(b) (2) do not apply (attributable
to amounts included in N
Corporation's gross income
under section 951 with respect
to B or C Corporation) (\$60 - \$36).....24.00

Amount required to be included
in N Corporation's gross
income under section 951 with
respect to A Corporation.....None

Dividend to N Corporation..... \$130.00

Dividend to which section
902 (b) (2) does not apply
(attributable to amounts
included in N Corporation's
gross income under section
951 with respect to C
Corporation).....\$36.00

Dividend to which section
902 (b) (1) does not apply
(attributable to amounts
included in N Corporation's
gross income under section 951
with respect to B Corporation)....80.00

Dividend to which section 902
(a) does not apply (attributable
to amounts included in N
Corporation's gross income
under section 951 with
respect to A Corporation)..... 0

Dividend from other earnings
and profits (attributable
to amounts not included in
N Corporation's gross income
with respect to A, B, or C
Corporation)..... 14.00

N Corporation (domestic corporation):

Foreign income taxes deemed
paid by N Corporation under
section 960 (a) (1) with respect
to C Corporation (\$50/\$105 X \$45)..... 21.43
(for formula see example (8))

Foreign income taxes deemed paid
by N Corporation under section
960 (a) (1) with respect to
B Corporation (allocation of
earnings and profits being made in
accordance with § 1.960-1
(c) (3) and paragraph (e) of
this section) (Separate tax rate
applicable to dividend received
by B Corporation)..... 65.53

Taxes paid by B Corporation:

Amount included in
N Corporation's gross
income under section 951
with respect to B Corpo-
ration

Earnings and profits of
B Corporation not included
in N Corporation's gross
income under section 951
with respect to C Corpo-
ration or lower tiers

X Tax paid by B Corpo-
ration on earnings not
included in N Corpo-
ration's gross income
with respect to C
Corporation or lower
tiers

(\$100/\$157.50 X \$92.50).....\$58.73

Taxes (of C Corporation) deemed paid by B Corporation
under section 902 (b) (2) which are deemed paid by
N Corporation under section 960 (a) (1) (\$100/\$157.50 X
\$10.71)..... 6.80
(for formula see example (8))

Total taxes deemed paid
by N Corporation under
section 960 (a) (1).....\$86.96

Foreign income taxes deemed paid by
N Corporation under section 902 (a):

Taxes paid by A Corporation
Corporation (\$130/\$140 X \$35)..... 32.50
(for formula see example (8))

Taxes paid by B Corporation
deemed paid by A Corporation
under section 902 (b) (1)
(Separate tax rate applicable to
dividend received by B Corporation):

Tax paid by B Corporation
on earnings previously
taxed with respect to
C Corporation or lower
tiers which is deemed
paid by N Corporation:

§ 1.960-2 (f) Example (9)

Portion of dividend to
N Corporation which is
from earnings included
in N Corporation's gross
income under section 951
with respect to C Corpo-
ration or lower tiers

X

Tax paid by B Corpo-
ration on earnings pre-
viously taxed with respect
to C Corporation or lower
tiers which is deemed paid
by A Corporation

Earnings and profits of
A Corporation included in
N Corporation's gross
income under section 951
with respect to C Corpo-
ration or lower tiers

(\$36/\$36 X \$5).....\$5.00

Tax paid by B on earnings not previously
taxed with respect to C or lower tiers
which is deemed paid by N Corporation:

Portion of dividend to
N Corporation which is from
earnings not included in
N Corporation's gross
income under section 951
with respect to A Corporation
or lower tiers

X

Tax paid by B Corporation
on earnings not pre-
viously taxed with
respect to C Corpo-
ration or lower tiers
which is deemed paid
by A Corporation

Earnings and profits of
A Corporation not included
in N Corporation's gross
income under section 951
with respect to B Corporation
or lower tiers

(\$14/\$24 X \$17.62)..... 10.50

Taxes (of C Corporation) deemed paid by B Corporation
deemed paid by A Corporation
under section 902 (b) (1)

(\$14/\$24 X \$2.04)..... 1.19
(for formula see example (8))

Total taxes deemed paid by N
Corporation under section 902
(a).....\$ 49.19

Total foreign income taxes deemed paid
by N Corporation under section 901\$136.15

Example (10) The facts are the same as in example (9) except that A Corporation has other earnings and profits of \$200 in 1978. The country under the laws of which A Corporation is incorporated imposes a tax of 20 percent on dividends received from subsidiaries and a tax of 50 percent on other earnings and profits. A Corporation distributes \$200 of its earnings and profits to N Corporation in 1978. The foreign income taxes paid by N Corporation under sections 960 (a) (1) and 902 (a) are determined as follows on the basis of the facts assumed.

C Corporation (third-tier corporation):

Pretax earnings and profits.....	\$150.00
Foreign income taxes paid by C Corporation (30%).....	45.00
Earnings and profits.....	105.00
Amount required to be included in gross income of N Corporation under section 951 with respect to C Corporation.....	50.00

Dividend to B Corporation.....	75.00
Dividend to which section 902 (b) (2) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to C Corporation).....	\$50.00

Dividend to which section 902 (b) (2) applies (attributable to amounts not included in N Corporation's gross income under section 951 with respect to C Corporation).....	25.00
---	-------

Amount of foreign income taxes of C Corporation deemed paid by B Corporation under section 902 (b) (2) and § 1.960-2 (b) (\$25/\$105 X \$45).....	10.71
(for formula see example (8))	

B Corporation (second-tier corporation):

Pretax earnings and profits	
Dividend from C Corporation.....	75.00
Other earnings and profits.....	225.00
Total pretax earnings and profits.....	300.00
Foreign income taxes of B Corporation.....	97.50

On dividends received from C Corporation to which section 902 (b) (2) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to C Corporation) (\$50 X .10).....\$ 5.00

On dividend from C Corporation to which section 902 (b) (2) applies (attributable to amounts not included in N Corporation's gross income under section 951 with respect to C Corporation) (\$25 X .10)..... 2.50

On other income of B Corporation (\$225 X .40)..... 90.00

Earnings and profits.....\$202.50

Attributable to dividend to which section 902 (b) (2) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to C Corporation) (\$50 - \$5)..... 45.00

Attributable to dividend from C Corporation to which section 902 (b) (2) applies (attributable to amounts not included in N Corporation's gross income under section 951 with respect to C Corporation) (\$25 - \$2.50)..... 22.50

Attributable to other income of B Corporation (\$225 - \$90)..... 135.00

Earnings and profits after exclusion of amounts attributable to dividend to which section 902 (b) (2) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to C Corporation) (\$202.50 - \$45)..... 157.50

Amount required to be included in N Corporation's gross income under section 951 with respect to B Corporation..... 00.00

Dividend paid by B Corporation.....\$175.00

Dividend to which section
902 (b) (2) does not apply
(attributable to amounts
included in N Corporation's
gross income under section
951 with respect to C
Corporation).....\$45.00

Dividend to which section
902 (b) (1) does not apply
(attributable to amounts
included in N Corporation's
gross income under section
951 with respect to B
Corporation) 100.00

Dividend from other earnings
and profits (attributable to
amounts not included in
N Corporation's gross income
with respect to B or C
Corporation) 30.00

Foreign income taxes of B
Corporation deemed paid by
A Corporation under section
902 (b) (1)
(\$45/\$45 X \$5)..... 5.00
(\$30/\$157.50 X \$92.50)..... 17.62
(for formula see example (9))

Foreign income taxes (of C Corporation)
deemed paid by B Corporation deemed paid by
A Corporation under section 902 (b) (1)
(\$30/\$157.50 X \$10.71)..... 2.04
(for formula see example (8))

A Corporation first-tier corporation):

Pretax earnings and profits

Dividend from B Corporation..... \$175.00

Other earnings and profits..... 200.00

Total pretax earnings and profits..... \$375.00

Foreign income taxes paid by A Corporation..... 135.00

On dividend received from B Corporation
to which section 902 (b) (2) does not
apply (attributable to amounts included
in N Corporation's gross income under
section 951 with respect to C Corporation)
(\$45 X .20).....9.00

On dividend received from B Corporation
to which section 902 (b) (1) does not apply
(attributable to amounts included in
N Corporation's gross income under
section 951 with respect to B Corporation)
(\$100 X .20).....20.00

On dividend from B Corporation attributable
to B Corporation's other earnings and profits
(attributable to amounts not included
in N Corporation's gross income with respect
to B or C Corporation)
(\$30 X .20)..... 6.00

On other income of A Corporation
(\$200 X .50)..... 100.00

Earnings and profits..... 240.00

Attributable to dividend to which
section 902 (b) (2) does not apply
(attributable to amounts included
in N Corporation's gross income
under section 951 with respect to C
Corporation) (\$45 - \$9).....36.00

Attributable to dividend to which
section 902 (b) (1) does not apply
(attributable to amounts included
in N Corporation's gross income
with respect to B Corporation)
(\$100 - \$20)..... 80.00

§ 1.960-2 (f) Example (10)

Attributable to other earnings and profits of A Corporation (attributable to amounts not included in N Corporation's gross income with respect to A, B, or C Corporation) $[(\$30 - \$6) + (\$200 - \$100)]$ \$124.00

Amount required to be included in N Corporation's gross income under section 951 with respect to A Corporation None

Earnings and profits after exclusion of amounts attributable to dividend to which section 902 (b) (1) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to B Corporation) \$160.00

Earnings and profits after exclusion of amounts attributable to dividend to which sections 902 (b) (1) and 902 (b) (2) do not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to B and C Corporation) 124.00

Dividend to N Corporation 200.00

Dividend attributable to amounts to which section 902 (b) (2) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to C Corporation) 36.00

Dividend attributable to amounts to which section 902 (b) (1) does not apply (attributable to amounts included in N Corporation's gross income with respect to B Corporation) 80.00

§ 1.950-2 Example (10)

Dividend attributable to amounts to which section 902 (a) does not apply (attributable to amounts included in N Corporation's gross income under section 951 with respect to A Corporation)..... 0

Dividend attributable to A Corporation's other earnings and profits (attributable to amounts not included in N Corporation's gross income under section 951 with respect to A, B, or C Corporation)..... \$84.00

N Corporation (domestic corporation)

Foreign income taxes deemed paid by N Corporation under section 960 (a) (1) with respect to C Corporation ($\$50/\$105 \times \$45$)..... \$21.43
(for formula see example (8))

Foreign income taxes deemed paid by N Corporation under section 960 (a) (1) with respect to B Corporation (allocation of earning and profits begin made in accordance with § 1.960-1 (c) (3) and paragraph (e) of this section)..... 65.53

Taxes paid by B Corporation ($\$100/\$157.50 \times \$92.50$)..... 58.73
(for formula see example (9))

Taxes deemed paid by B Corporation ($\$100/\$157.50 \times \$10.71$)..... 6.80
(for formula see example (9))

Total taxes deemed paid by N Corporation under section 960 (a) (1)..... \$86.96

Foreign income taxes deemed paid by
N Corporation under section 902 (a)
(Separate tax rate applicable to
dividends received by A Corporation):

Tax paid by A Corporation on earnings
previously taxed with respect to
B Corporation or lower tiers which
is deemed paid by N Corporation:

Portion of dividend to N Corporation
which is from earnings included in
N Corporation's gross income under
section 951 with respect to

B Corporation or lower tiers X
Earnings and profits of
A Corporation included in
N Corporation's gross income
under section 951 with
respect to B Corporation or
lower tiers

Tax paid by
A Corporation on
dividends received
by A Corporation from
earnings included
in N Corporation's
gross income with
respect to B Corpo-
ration or lower tiers

(\$116/\$116 X \$29)..... \$29.00

Tax paid by A Corporation on earnings not
previously taxed with respect to B Corporation
or lower tiers which is deemed paid by
N Corporation:

Portion of dividend to
N Corporation which is from
earnings not included in
N Corporation's gross income
under section 951 with
respect to A Corporation or
lower tiers X

Earnings and profits of
A Corporation not included
in N Corporation's gross
income under section 951
with respect to B Corpo-
ration or lower tiers

Tax paid by A Corporation
on earnings not included
in N Corporation's
gross income with respect
to B Corporation or lower
tiers

(\$84/\$124 X \$106)..... 71.81

Taxes paid by B Corporation
deemed paid by A Corpo-
ration under section 902

(b) (1):

(\$36/\$36 X \$5).....\$ 5.00

(\$84/\$124 X \$17.62)..... 11.94

(for formula see example (9) for separate tax
rate applicable on dividend received by
B Corporation)

Taxes (of C Corporation) deemed paid by B
Corporation deemed paid by A Corporation under
section 902 (b) (1)

(\$84/\$124 X \$2.04)..... 1.38

(for formula see example (8))

Total taxes deemed paid by

N Corporation under section 902

(a) credit.....\$119.13

Total foreign income taxes deemed

paid by N Corporation under

Section 901\$205.09

§ 1.960-2 (f) Example (10)

(g) Formulas. This paragraph contains formulas for determining a domestic corporation's section 902 and 960 credits when amounts distributed through chain of ownership have been included in whole or in part in the gross income of a domestic corporation under section 951 with respect to first-, second-, third-, or lower-tier corporations.

(1) Determination of the section 902 credit on distributions to a U.S. corporation. (i) Section 902 (b) (2) credit. If the second-tier corporation receives a dividend from a third-tier corporation attributable in whole or in part to amounts included in a domestic corporation's gross income under section 951 with respect to the third- or lower-tier corporations, the second-tier corporation's credit for taxes paid by the third-tier corporation under section 902 (b) (2) is determined as follows:

(A) If the effective rate of tax on dividends received by the third-tier corporation is the same as the effective rate of tax on its other earnings and profits--

Dividend to second-tier corporation
less portion of dividend from earnings
included in domestic corporation's
gross income under section 951 with
respect to third-tier corporation
Earnings and profits of third-tier
corporation

X Taxes paid by
third-tier
corporation

(B) If the effective rate of tax on dividends received by the third-tier corporation is higher or lower than the effective rate of tax on its other earnings and profits--

(1) Credit for tax paid by third-tier corporation on earnings included in domestic corporation's gross income with respect to fourth- or lower-tier corporations --

Portion of dividends to second-tier corporation which is from earnings included in domestic corporation's gross income under section 951 with respect to fourth- or lower-tier corporations
Earnings and profits of third-tier corporation included in domestic corporation's gross income under section 951 with respect to fourth- or lower-tier corporations

X Tax paid by third-tier corporation on dividend received by third-tier corporation from earnings included in domestic corporation's gross income with respect to fourth- or lower-tier corporations

(2) Credit for tax paid by third-tier corporation on earnings not included in domestic corporation's gross income with respect to fourth- or lower-tier corporations--

Portion of dividend to second-tier corporation which is from earnings not included in domestic corporation's gross income under section 951 with respect to third- or lower-tier corporations
Earnings and profits of third-tier corporation not included in domestic corporation's gross income under section 951 with respect to fourth- or lower-tier corporations

X Tax paid by third-tier corporation on earnings not included in domestic corporation's gross income with respect to fourth- or lower-tier corporations

(ii) Section 902 (b) (1) credit. If the first-tier corporation receives a dividend from a second-tier corporation attributable in a whole or in part to amounts included in a domestic corporation's gross income under section 951 with respect to the second- or lower-tier corporations, the first-tier corporation's credit for taxes paid and deemed paid by the second-tier corporation under section 902 (b) (1) is determined as follows:

(A) Taxes paid by the second-tier corporation which are deemed paid by the first-tier corporation.

(1) If the effective rate of tax on dividends received by the second-tier corporation is the same as the effective rate of tax on its other earnings and profits --

Dividend to first-tier corporation
less portion of dividend from
earnings included in domestic
corporation's gross income under
section 951 with respect to second-
tier corporation
Earnings and profits of second-
tier corporation

X Taxes paid by second-
tier corporation

(2) If the effective rate of tax on dividends received by the second-tier corporation is higher or lower than the effective rate of tax on its other earnings and profits --

(i) Credit for tax paid by second-tier corporation on earnings previously taxed with respect to third- or lower-tier corporations --

Portion of dividend to first-tier corporation which is from earnings included in domestic corporation's gross income under section 951 with respect to third- or lower-tier corporations

Earnings and profits of second-tier corporation included in domestic corporation's gross income under section 951 with respect to third- or lower-tier corporations

X Tax paid by second-tier corporation on dividend received by second-tier corporation from earnings included in domestic corporation's gross income with respect to third- or lower-tier corporations

(ii) Credit for tax paid by second-tier corporation on earnings not previously taxed with respect to third- or lower-tier corporations--

Portion of dividend to first-tier corporation which is from earnings not included in domestic corporation's gross income under section 951 with respect to second- or lower-tier corporations

Earnings and profits of second-tier corporation not included in domestic corporation's gross income under section 951 with respect to third- or lower-tier corporations

X Tax paid by second-tier corporation on earnings not included in domestic corporation's gross income with respect to third- or lower-tier corporations

(B) Taxes deemed paid by the second-tier corporation which are deemed paid by the first-tier corporation.

(1) If the effective rate of tax on dividends received by the third-tier corporation is the same as the effective rate of tax on its other earnings and profits--

Dividend to first-tier corporation
less portion of dividend from
earnings included in domestic
corporation's gross income under
section 951 with respect to second-
and third-tier
corporations

Earnings and profits of second-tier
corporation less earnings and profits
attributable to amounts included in
domestic corporation's gross income
under section 951 with respect to third-
tier corporation

X Taxes paid by third-
tier corporation
which are deemed paid
by second-tier
corporation

(2) If the effective rate of tax on dividends
received by the third-tier corporation is higher or
lower than the effective rate of tax on its other
earnings and profits--

(i) Credit for tax paid by third-tier corporation on
earnings previously taxed with respect to fourth- or
lower-tier corporations --

Portion of dividend to first-
tier corporation which is from
earnings included in domestic
corporation's gross income under
section 951 with respect to
fourth- or lower-tier
corporations

Earnings and profits of second-
tier corporations included in
domestic corporation's gross
income under section 951 with
respect to fourth- or lower-
tier corporations

X Tax paid by third-tier
corporation on earnings
previously taxed with
respect to fourth-
or lower-tier corporations
which is deemed paid
by second-tier corporation

(ii) Credit for tax paid by third-tier corporation on
earnings not previously taxed with respect to fourth- or
lower-tier corporations--

§ 1.960-2 (g) (1) (ii) (B) (2) (ii)

Portion of dividend to first-tier corporation which is from earnings not included in domestic corporation's gross income under section 951 with respect to second- or lower-tier corporations

Earnings and profits of second-tier corporation not included in domestic corporation's gross income under section 951 with respect to third- or lower-tier corporations

X Tax paid by third-tier corporation on earnings not previously taxed with respect to fourth- or lower-tier corporations which is deemed paid by second-tier corporation

(iii) Section 902 (a) credit. If the domestic corporation receives a dividend from a first-tier corporation attributable in whole or in part to amounts included in a domestic corporation's gross income under section 951 with respect to the first- or lower-tier corporations, the domestic corporation's credit for taxes paid and deemed paid by the first-tier corporation under section 902 (a) is determined as follows:

(A) Taxes paid by the first-tier corporation which are deemed paid by domestic corporation.

(1) If the effective rate of tax on dividends received by the first-tier corporation is the same as the effective rate of tax on its other earnings and profits--

Dividend to domestic corporation less portion of dividend from earnings included in domestic corporation's gross income under section 951 with respect to first-tier corporation

Earnings and profits of first-tier corporation

X Taxes paid by first-tier corporation

(2) If the effective rate of tax on dividends received by the first-tier corporation is higher or lower than the effective rate of tax on its other earnings and profits --

(i) Credit for tax paid by first-tier corporation on earnings previously taxed with respect to second- or lower-tier corporations--

Portion of dividend to domestic corporation which is from earnings included in domestic corporation's gross income under section 951 with respect to second- or lower-tier corporations

Earnings and profits of first-tier corporation included in domestic corporation's gross income under section 951 with respect to second- or lower-tier corporations

X Tax paid by first-tier corporation on dividends received by first-tier corporation from earnings included in domestic corporation's gross income with respect to second- or lower-tier corporations

(ii) Credit for tax paid by first-tier corporation on earnings not previously taxed with respect to second- or lower-tier corporations--

Portion of dividend to domestic corporation which is from earnings not included in domestic corporation's gross income under section 951 with respect to first- or lower-tier corporations

Earnings and profits of first-tier corporation not included in domestic corporation's gross income under section 951 with respect to second- or lower-tier corporations

X Tax paid by first-tier corporation on earnings not included in domestic corporation's gross income with respect to second- or lower-tier corporations

(B) Taxes (paid by second-tier corporation) deemed paid by first-tier corporation which are deemed paid by domestic corporation.

(1) If the effective rate of tax on dividends received by the second-tier corporation is the same as its tax rate on other earnings and profits--

Dividend to domestic corporation
less portion of dividend from earnings
included in domestic corporation's
gross income under section 951 with
respect to first- and second-tier
corporations

Earnings and profits of first-tier
corporation less earnings and profits
attributable to amounts included in
domestic corporation's gross income under
section 951 with respect to second-tier
corporation

X Taxes paid by
second-tier
corporation which
are deemed paid by
first-tier
corporation.

(2) If the effective rate of tax on dividends received by the second-tier corporation is higher or lower than the effective rate of tax on its other earnings and profits--

(i) Credit for tax paid by second-tier corporation on earnings previously taxed with respect to third-tier or lower-tier corporations--

Portion of dividend to domestic
corporation which is from
earnings included in domestic
corporation's gross income under
section 951 with respect to third-
or lower-tier corporations

Earnings and profits of first-tier
corporation included in domestic
corporation's gross income under
section 951 with respect to third-
or lower-tier corporations

X Tax paid by second-
tier corporation on
earnings previously
taxed with respect
to third- or
lower-tier corporations
which is deemed paid
by first-tier corpo-
ration

(ii) Credit for tax paid by second-tier

corporation on earnings not previously taxed with respect to third- or lower-tier corporations--

Portion of dividend to domestic corporation which is from earnings not included in domestic corporation's gross income under section 951 with respect to first- or lower-tier corporations

Earnings and profits of first-tier corporation not included in domestic corporation's gross income under section 951 with respect to second- or lower-tier corporations

X Tax paid by second-tier corporation on earnings not previously taxed with respect to third- or lower-tier corporations which is deemed paid by first-tier corporation

(C) Taxes (of third-tier corporation) deemed

paid by first-tier corporation which are deemed

paid by domestic corporation.

(1) If the effective rate of tax on dividends

received by the third-tier corporation is the

same as the effective rate of tax on its other

earnings and profits--

Dividend to domestic corporation less portion of dividend from earnings included in domestic corporation's gross income under section 951 with respect to first-, second- and third-tier corporations

Earnings and profits of first-tier corporation less earnings and profits attributable to amounts included in domestic corporation's gross income with respect to second- and third-tier corporations

X Taxes deemed paid by second-tier corporation which are deemed paid by first-tier corporation

§ 1.960-2 (g) (1) (iii) (C) (1)

(2) If the effective rate of tax on dividends received by the third-tier corporation is higher or lower than the effective rate of tax on its other earnings and profits--

(i) Credit for tax (of third-tier corporation) deemed paid by second-tier corporation on earnings previously taxed with respect to fourth- or lower-tier corporations --

Portion of dividend to domestic corporation which is from earnings included in domestic corporation's gross income under section 951 with respect to fourth- or lower-tier corporations

Earnings and profits of first-tier corporation included in domestic corporation's gross income under section 951 with respect to fourth- or lower-tier corporations

X Tax deemed paid by second-tier corporation on earnings previously taxed with respect to fourth- or lower-tier corporations which is deemed paid by first-tier corporation

(ii) Credit for tax (of third-tier corporation) deemed paid by second-tier on earnings not previously

taxed with respect to fourth- or lower-tier corporations

Portion of dividend to domestic corporations which is from earnings not included in domestic corporations' gross income under section 951 with respect to first- or lower-tier corporations

Earnings and profits of first-tier corporation not included in domestic corporation's gross income under section 951 with respect to second- or lower-tier corporations

X Tax deemed paid by second-tier corporation on earnings not previously taxed with respect to fourth- or lower-tier corporations which is deemed paid by first-tier corporation

§ 1.960-2 (g) (1) (iii) (C) (2) (ii)

(2) Determination of domestic corporation's

section 960 credit for amounts included in its gross
income with respect to a first-, second-, or third-tier
corporation which has received a distribution previously
included in the gross income of a domestic corporation
under section 951. (i) Third-tier credit. If a domestic
 corporation is required to include an amount in its
 gross income under section 951 with respect to a
 third-tier corporation which has received a distri-
 bution from a fourth-tier corporation of amounts
 included in a domestic corporation's gross income under
 section 951 with respect to the fourth- or lower-tier

corporations, the domestic corporation's credit for
 taxes paid by the third-tier corporation under sec-
 tion 960 (a) (1) is determined as follows:

(A) If the effective rate of tax on dividends
 received by the third-tier corporation
 is the same as the effective rate of tax on its other
 earnings and profits--

Amount included in domestic corpo-
 ration's gross income under sec-
 tion 951 with respect to third-tier
 corporation

Earnings and profits of third-tier
 corporation

X Taxes paid by third-
 tier corporation

§ 1.960-2 (g) (2) (i) (A)

(B) If the effective rate of tax on dividends received by the third-tier corporation is higher or lower than the effective rate of tax on its other earnings and profits--

Amount included in domestic corporation's gross income under section 951 with respect to third-tier corporation
Earnings and profits of third-tier corporation not included in domestic corporation's gross income under section 951 with respect to fourth- or lower-tier corporations

X Tax paid by third-tier corporation on earnings not included in domestic corporation's gross income with respect to fourth- or lower-tier corporations

(ii) Second-tier credit. If a domestic corporation is required to include an amount in its gross income under section 951 with respect to a second-tier corporation which has received a distribution from a third-tier corporation of amounts included in a domestic corporation's gross income under section 951 with respect to the third- or lower-tier corporations, the domestic corporation's credit for taxes paid and deemed paid by the second-tier corporation under section 960 (a) (1) is determined as follows:

(A) Credit for taxes paid by the second-tier corporation which are deemed paid by the domestic corporation.

(1) If the effective rate of tax on dividends received by the second-tier corporation is the same as the effective rate of tax on its other earnings and profits--

Amount included in domestic corporation's gross income under section 951 with respect to second-tier corporation
Earnings and profits of second-tier corporation

X Taxes paid by second-tier corporation

(2) If the effective rate of tax on dividends received by the second-tier is higher or lower than the effective rate of tax on its other earnings and profits--

Amount included in domestic corporation's gross income under section 951 with respect to second-tier corporation

Earnings and profits of second-tier corporation not included in domestic corporation's gross income under section 951 with respect to third- or lower-tier corporations

X Tax paid by second-tier corporation on earnings not included in domestic corporation's gross income with respect to third- or lower-tier corporations

(B) Credit for taxes (of the third-tier corporation)

deemed paid by the second-tier corporation under section 902 (b) (2).

(1) If the effective rate of tax on dividends received by the third-tier corporation is the same as the effective rate of tax on its other earnings and profits--

Amount included in domestic corporation's gross income under section 951 with respect to second-tier corporation

Earnings and profits of second-tier corporation less earnings and profits attributable to amounts included in domestic corporation's gross income with respect to third-tier corporation

X Taxes paid by third-tier corporation which are deemed paid by second-tier corporation

§ 1.960-2 (g) (2) (ii) (B) (1)

(2) If the effective rate of tax on dividends received by the third-tier corporation is higher or lower than the effective rate of tax on its other earnings and profits --

Amount included in domestic corporation's gross income under section 951 with respect to second-tier corporation

Earnings and profits of second-tier corporation not included in domestic corporation's gross income under section 951 with respect to third- or lower-tier corporations

X Tax paid by third-tier corporation on earnings not previously taxed with respect to fourth- or lower-tier corporations which is deemed paid by second-tier corporation

(iii) First-tier credit. If a domestic corporation is required to include amounts in its gross income under section 951 with respect to a first-tier corporation which has received a distribution from a second-tier corporation of amounts included in a domestic corporation's gross income under section 951 with respect to the second- or lower-tier corporations, the domestic corporation's credit for taxes paid and deemed paid by the first-tier corporation under section 960 (a) (1) shall be determined as follows:

§ 1.960-2 (g) (2) (iii)

(A) Credit for taxes paid by the first-tier corporation.

(1) If the effective rate of tax on dividends received by the first-tier corporation is the same as the effective rate of tax on its other earnings and profits--

Amount included in domestic corporation's gross income under section 951 with respect to first-tier corporation
Earnings and profits of first-tier corporation

X Taxes paid by first-tier corporation

(2) If the effective rate of tax on dividends received by the first-tier corporation is higher or lower than the effective rate of tax on its other earnings and profits--

Amount included in domestic corporation's gross income under section 951 with respect to first-tier corporation
Earnings and profits of first-tier corporation not included in domestic corporation's gross income under section 951 with respect to second- or lower-tier corporations

X Tax paid by first-tier corporation on earnings not included in domestic corporation's gross income with respect to second- or lower-tier corporations

(B) Credit for taxes paid by the second-tier corporation deemed paid by the first-tier corporation under section 902 (b) (1).

(1) If the effective rate of tax on dividends received by the second-tier corporation is the same as the effective rate of tax on its other earnings and profits--

§ 1.960-2 (g) (2) (iii) (B) (1)

Amount included in domestic corporation's gross income under section 951 with respect to first-tier corporation

Earnings and profits of first-tier corporation less earnings and profits attributable to amounts included in domestic corporation's gross income under section 951 with respect to second-tier corporation

X Taxes paid by second-tier corporation which are deemed paid by first-tier corporation

(2) If the effective rate of tax on dividends received by the second-tier corporation is higher or lower than the effective rate of tax on its other earnings and profits--

Amount included in domestic corporation's gross income under section 951 with respect to first-tier corporation

Earnings and profits of first-tier corporation not included in domestic corporation's gross income under section 951 with respect to second- or lower-tier corporations

X Tax paid by second-tier corporation on earnings not previously taxed with respect to third- or lower-tier corporations which is deemed paid by first-tier corporation

(C) Credit for taxes (of the third-tier corporation)

deemed paid by the second-tier corporation which are deemed paid by first-tier corporation under section 902 (b) (1).

(1) If the effective rate of tax on dividends received by the third-tier corporation is the same as the effective rate of tax on its other earnings and profits --

Amount included in domestic corporation's gross income under section 951 with respect to first-tier corporation

Earnings and profits of first-tier corporation less earnings and profits attributable to amounts included in domestic corporation's gross income with respect to second- and third-tier corporation

- X Taxes deemed paid by second-tier corporation which are deemed paid paid by first-tier corporation

(2) If the effective rate of tax on dividends received by the third-tier corporation is higher or lower than the effective rate of tax on its other earnings and profits --

Amount included in domestic corporation's gross income under section 951 with respect to first-tier corporation

Earnings and profits of first-tier corporation not included in domestic corporation's gross income under section 951 with respect to second- or lower-tier corporation

- X Tax deemed paid by second-tier corporation on earnings not previously taxed with respect to fourth- or lower-tier corporations which is deemed paid by first-tier corporation

BILLING CODE 4830-01-C

§ 1.960-2 (g) (2) (iii) (C) (2)

Par. 3. Section 1.960-3, paragraph (b), is revised to read as follows:

§ 1.960-3 Gross-up of amounts included in income under section 951.

(b) *Certain taxes not included in income.* Any taxes deemed paid by a domestic corporation for the taxable year pursuant to section 902(a) or section 960(a)(1) shall not be included in the gross income of such corporation for such year as a dividend pursuant to section 78 and § 1.78-1 to the extent that such taxes are paid or accrued by the first-, second-, or third-tier corporation, as the case may be, on or with respect to an amount which is excluded from the gross income of such foreign corporation under section 959(b) and § 1.959-2 as distributions from the earnings and profits of another controlled foreign corporation attributable to an amount which is, or has been, required to be included in the gross income of the domestic corporation under section 951.

Par. 4. Section 1.960-7, paragraph (c), is revised to read as follows:

§ 1.960-7 Effective dates

(c) *Third-tier credit.* The rules contained in §§ 1.960-1—1.960-6 shall apply to amounts included in the gross income of a domestic corporation under section 951 with respect to the earnings and profits of third-tier corporations (as defined in § 1.960-1) in taxable years beginning after December 31, 1976.

William E. Williams,

Acting Commissioner of Internal Revenue.

[FR Doc. 80-36110 Filed 11-18-80; 8:45 am]

BILLING CODE 4830-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-3-FRL 1674-8]

Proposed Revision of Virginia State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Commonwealth of Virginia has submitted a proposed revision to the Virginia State Implementation Plan in the form of a letter from Maurice B. Row, Secretary of Commerce and Resources to Douglas M. Costle, Administrator of the Environmental Protection Agency. This revision consists of a variance from the Regulations for the Control and

Abatement of Air Pollution for preparing cars for overseas shipment at the Exchange Service Station on the Naval Base in Norfolk, Virginia. The Secretary is requesting that this variance be approved through December 31, 1982.

DATE: Comments must be submitted on or before December 19, 1980.

ADDRESSES: Copies of the proposed SIP revision and the accompanying support documents are available for inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency, Air Programs Branch, Curtis Building, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106. Attn: Ms. Patricia Sheridan.

Virginia State Air Pollution Control Board, Room 1106, Ninth Street Office Building, Richmond, Virginia 23219. Attn: William Meyer, Executive Director.

Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street SW. (Waterside Mall), Washington, D.C. 20460.

All comments on the proposed revision submitted on or before December 19, 1980 will be considered and should be directed to: Mr. Robert Blanco, Acting Chief, Air Programs Branch (AH023VA), Air, Toxics & Hazardous Materials Division, U.S. Environmental Protection Agency, Region III, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106.

FOR FURTHER INFORMATION CONTACT: Charles Miesse (3AH12), U.S. Environmental Protection Agency, Region III, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106, telephone number 215/597-8180.

SUPPLEMENTARY INFORMATION: On August 13, 1979, Maurice B. Rowe, Secretary of Commerce and Resources, submitted to EPA, Region III, a revision to amend the Commonwealth of Virginia Regulations for the Control and Abatement of Air Pollution. The revision consists of a variance from Part IV, Rule EX-10, Sections 4.100(a) (1), (2), and (3) for preparing cars for overseas shipment at the Exchange Service Station on the Naval Base in Norfolk, Virginia. The Secretary is requesting that the variance be approved through December 31, 1982.

The amended rule would permit operation of motor vehicles, owned by Department of Defense personnel, without functioning catalytic converters, for a period of seven days before export and after import in order to prevent the poisoning of the catalyst by use of leaded gasoline overseas. EPA feels that there is no problem with allowing two days beyond the time (5 days) originally

approved by the EPA Office of Enforcement.

The variance order is consistent with the Import Control Program operated by the Department of Defense, which was previously approved by the EPA Office of Enforcement, pursuant to 40 CFR § 85.1509. This previous approval permits the operation of certain vehicles without properly installed required emission control equipment for a period of five days before turn-in at port and after pick-up from port. EPA believes that the proposed variance is advantageous both in terms of furnishing needed relief to Department of Defense personnel and providing reasonable assurance that emission requirements will be met.

The Commonwealth of Virginia submitted proof that a public hearing with respect to this amendment was held in Virginia Beach, Virginia, on June 14, 1979, in accordance with the requirements of 40 CFR § 51.4.

Based on the foregoing, it is the tentative decision of the Administrator to approve the proposed revision of the Virginia SIP.

The public is invited to submit to the address stated above comments on whether the amendments of the Commonwealth's regulations should be approved as a revision of the Virginia State Implementation Plan.

The Administrator's decision to approve or disapprove the proposed revision will be based on the comments received and on a determination of whether the amendment meets the requirements of Section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption and Submittal of State Implementation Plans.

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(42 U.S.C. §§ 7401-642)

Dated: October 31, 1980.

Jack J. Schramm,
Regional Administrator.

[FR Doc. 80-36047 Filed 11-18-80; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 256

[SWH-FRL 1674-4]

Guidelines for Development and Implementation of State Solid Waste Management Plans**AGENCY:** Environmental Protection Agency.**ACTION:** Withdrawal of proposed rule.

SUMMARY: Inadvertently EPA published two versions of FRL-1619-4, proposed amendments to the Guidelines for the Development and Implementation of State Solid Waste Management Plans issued under Subtitle D of RCRA. The correct version of the proposed rule is the one published in the **Federal Register** on October 30, 1980 (45 FR 71818). EPA is hereby withdrawing the version of FRL-1619-4 which was published in the **Federal Register** on November 4, 1980 (45 FR 73440).

DATE: EPA will accept those public comments on the proposed modifications which are received on or before December 1, 1980.

FOR FURTHER INFORMATION CONTACT: Susan Absher, Office of Solid Waste (WH-563), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (202) 755-9145.

Dated: November 13, 1980.

Steffen Plehn,

Deputy Assistant Administrator for Solid Waste.

[FR Doc. 80-36049 Filed 11-18-80; 8:45 am]

BILLING CODE 6560-30-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Public Health Service****42 CFR Part 36****Services at Indian Health; Proposed Revision of Regulations****AGENCY:** Public Health Service.**ACTION:** Proposed rule.

SUMMARY: The Public Health Service proposes to revise Subparts A and B of 42 CFR Part 36 (except for § 36.12 governing eligibility for services). Part 36 contains the regulations governing Indian Health. The revisions are being made in order to write the regulations in "Common Sense" language. Also, the regulations are updated by deleting obsolete provisions (Subpart D and § 36.13 governing charges for services rendered in Indian Health Service facilities. (IHS).

DATE: Comments must be received on or before January 5, 1981.

ADDRESS: Written comments on these proposed rules may be sent to the Director, Indian Health Service, Room 5A-39, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

FOR FURTHER INFORMATION CONTACT: Richard J. McCloskey, Indian Health Service, 5600 Fishers Lane, Room 5A-39, Rockville, Maryland 20857, Telephone (301) 443-1116.

SUPPLEMENTARY INFORMATION: This proposed revision affecting Subparts A, B and D of 42 CFR Part 36 is part of the Department of Health and Human Services (HHS) response to Executive Order No. 12044, "Improving Government Regulations." The HHS program is known as "Operation Common Sense" and has the goal of improving the clarity of language used in regulations. A notice of intent to proposed changes in format was published in the **Federal Register** on February 7, 1980 (45 FR 8314). No substantive change in program benefits is made or intended.

In addition to "common sense" revisions in language, we propose revocation of certain provisions in the regulation which are no longer used:

1. Subpart D, "Contagious and Infectious Diseases" concerns involuntary commitment of tuberculosis patients. It was published in 1961 and no longer reflects current medical practice in the treatment of tuberculosis patients. Current techniques of treatment now render the disease non-communicable within 2 to 3 weeks, followed by a longer period (9 to 12 months) of therapy and surveillance to arrest the disease. Involuntary commitment is no longer necessary for treatment; nor is it part of the treatment process. We, therefore, propose to revoke Subpart D.

2. We also propose revocation of § 36.13 of Subpart B, "Charges to Indian beneficiaries for services provided in Public Health Service facilities or by Public Health Service personnel." This section is a carryover of a corresponding provision in regulations of the Bureau of Indian Affairs (BIA) in effect at the time of the transfer of the Indian health program to the Public Health Service in 1955. (42 U.S.C. 2001 et seq.). The BIA regulation was issued under the authority of a proviso in the Department of the Interior Appropriation Act of 1939 which was repeated in each subsequent appropriation act through 1946, but not thereafter.

Absent specific statutory authority to impose charges, § 36.13 has been interpreted as authorizing only requests for payment which do not create a legal indebtedness. Moreover, it has not been used. The Indian Health Service does

not charge Indians for care in its facilities, or otherwise establish a means test for receipt of services. We, therefore, propose to revoke § 36.13.

We note, however, that the IHS does bill Medicare and Medicaid for services rendered to Indian beneficiaries of those programs pursuant to Title IV of the Indian Health Care Improvement Act, Pub. L. 94-437. (42 U.S.C. 1395qq; 42 U.S.C. 1396j). Consequently, § 36.13 will be reserved for future use should the need arise to issue regulations concerning the billing of third party payors.

The proposal would also update § 36.14 regarding rates charged ineligible individuals for emergency care at IHS facilities. Inpatient rates are no longer established by the Office of Management and Budget. Rather, rates for both inpatient and outpatient care developed by the Health Services Administration within HHS and approved by the Assistant Secretary for Health and Surgeon General are published annually in the **Federal Register**. (The rates for fiscal year 1980 were published on April 2, 1980, at 45 FR 21712). The regulation has been changed to reflect this.

The proposal does not affect § 36.12 of Subpart B, "Persons to whom services will be provided." A proposal to amend this section to make "common sense" revisions in format and to expand eligibility to certain non-Indians will be published separately.

Office of Management and Budget Circular A-95, Evaluation, Review, and Coordination of Federal and Federally Assisted Programs, is not applicable to this notice.

The Department of Health and Human Services proposes to revise Part 36 of Title 42, Code of Federal Regulations, by revising Subparts A, B, and D as set out below.

Dated: October 31, 1980.

Julius B. Richmond,

Assistant Secretary for Health.

Approved: November 7, 1980.

Patricia Roberts Harris,
Secretary.

It is proposed to amend the table of contents of Part 36, Title 42 of the Code of Federal Regulations as follows:

PART 36—INDIAN HEALTH**Subpart A—Purpose and Definitions**

Sec.

36.1 Definitions.

36.2 Purpose of the regulations.

36.3 Administrative instructions.

Subpart B—What Services are Available and Who is Eligible for Care?

36.11 Services available.

36.12 Persons to whom services will be provided.

36.13 [Reserved]

36.14 Care and treatment of ineligible individuals.

Subpart C—Contract Health Services

* * * * *

Subpart D—[Reserved]

Subpart E—Preference in employment

* * * * *

It is proposed to revise Subpart A of Part 36, Title 42 of the Code of Federal Regulations as follows:

Subpart A—Purpose and Definitions

§ 36.1 Definitions.

When used in this part;
"Bureau of Indian Affairs" means the Bureau of Indian Affairs, Department of the Interior;

"Indian" includes Indians in the Continental United States, and Indians, Aleuts and Eskimos in Alaska;

"Indian health program" means the health services program for Indians administered by the Indian Health Service within the Department of Health and Human Services.

"Jurisdiction" has the same geographical meaning as in Bureau of Indian Affairs usage.

"Service" means the Indian Health Service.

§ 36.2 Purpose of the regulations.

These regulations establish general principles and program requirements for carrying out the Indian health program.

§ 36.3 Administrative instructions.

The Service periodically issues administrative instructions to its officers and employees which are primarily found in the Indian Health Service Manual and the Area Office and Program Office supplements. These instructions are operating procedures to assist officers and employees in carrying out their responsibilities, and are not regulations establishing program requirements which are binding upon members of the general public.

It is proposed to amend Subpart B of Part 36, Title 42 of the Code of Federal Regulations by revising §§ 36.11 and 36.14. Section 36.13 is removed and reserved as follows:

Subpart B—What Services are Available and Who is Eligible to Receive Care?

§ 36.11 Services available.

(a) *Type of services that may be available.* Services for the Indian community served by the local facilities and program may include hospital and medical care, dental care, public health

nursing and preventive care including immunizations, and health examination of special groups such as school children.

(b) *Where services are available.*

Available services will be provided at hospitals and clinics of the Service, and at contract facilities (including tribal facilities under contract with the Service).

(c) *Determination of what services are available.* The Service does not provide the same health services in each area served. The services provided to any particular Indian community will depend upon the facilities and services available from sources other than the Service and the financial and personnel resources made available to the Service.

§ 36.12 Persons to whom services will be provided.

* * * * *

§ 36.13 [Reserved]

§ 36.14 Care and treatment of ineligible individuals.

(a) In case of emergency, as an act of humanity, individuals not eligible under § 36.12 may be provided temporary care and treatment in Service facilities.

(b) *Charging ineligible individuals.* Where the Service Unit Director determines that an ineligible individual is able to defray the cost of care and treatment, the individual shall be charged at rates approved by the Assistant Secretary for Health and Surgeon General published in the *Federal Register*. Reimbursement from third party payors may be arranged by the patient or by the Service on behalf of the patient.

It is proposed to remove and reserve Subpart D of Part 36, Title 42 of the Code of Federal Regulations as follows:

§§ 36.30—36.34 (Subpart D) [Reserved]

[FR Doc. 80-36111 Filed 11-18-80; 8:45 am]

BILLING CODE 4110-84-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[CC Docket No. 80-632; FCC 80-585]

Overseas Communications Services

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This Notice proposes to reexamine existing Commission policy which limits the international record carriers' provision of international voice services and AT&T's provision of

international record services.

Commission tentatively concludes that removing barriers will improve services and lower prices. Comments are solicited as to the advisability of removing these current policy restrictions.

DATES: Comments are due on or before December 12, 1980. Replies are due on or before January 16, 1981.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Stuart Chiron, Common Carrier Bureau, 202-632-7265.

In the matter of Overseas Communications Services, C.C. Docket No. 80-632.

Adopted: October 9, 1980.

Released: October 28, 1980.

By the Commission: Commissioner Lee concurring in the result; Commissioner Jones absent.

1. On December 12, 1979, we adopted several orders affecting the provision of international communications services by various common carriers.¹ Our efforts to establish an improved international communications system with more choices for consumers, more diverse service offerings, and lower rates have been implemented through a series of market structure modifications. As another step in our efforts to foster innovation and efficiency by removing the policy proscriptions which bar or inhibit competition between potential competitors, and in view of the staff's findings in the Audit² that the overall rates of return of the international record carriers (IRCs) might be excessive, we believe that a second look at our policy which limits AT&T's international record offerings, including the 1964 TAT-4 decision³ which bars AT&T from offering alternate voice-record service, is now warranted. This Notice of Proposed Rulemaking will necessarily include discussions of the

¹ *American Telephone and Telegraph Company (Dataphone)*, 75 F.C.C. 2d 682; *Western Union International, Inc. et al (Datel)*, 76 F.C.C. 2d 166; *International Record Carriers' Scope of Operations (Gateways)*, 76 F.C.C. 2d 115; *Interface of the International Telex Service with the Domestic Telex and TWX services*, 76 F.C.C. 2d 61.

² *Preliminary Audit and Study of Operations of International Carriers and Their Communications Services Between the United States and Overseas and Foreign States*, 75 F.C.C. 2d 726 (1980). The Audit indicates that in 1976 the three major IRCs had overall rates of return ranging from 13.3% to 24.4%. For telex, the rates of return of the three major IRCs range from 31.7% to 58.3%. The incompleteness and inconsistencies of the data presented to the Commission by the carriers require these figures to be interpreted as only indications or approximations of financial conditions.

³ 37 F.C.C. 1151 (1964) hereinafter referred to as TAT-4.

international voice/record relationship prior to the TAT-4 decision, the TAT-4 decision itself, post TAT-4 developments, current policy considerations and the Communications Act of 1934, as amended. The Notice of Proposed Rulemaking will also discuss current voice restrictions in the IRCs' authorizations.

Background

2. Historically, voice and record services, both within the United States and between the U.S. and foreign points, have been offered by different carriers over separate networks of facilities. This dichotomy between voice and record services initially arose from the acquisition of the patent rights to these two technologies by different entities, AT&T and Western Union. In a patent suit settlement agreement, AT&T and Western Union in 1879 agreed to preserve this dichotomy by not competing in each other's markets. Although AT&T acquired control of Western Union in 1909, the dichotomy was restored in 1913 when the Justice Department persuaded AT&T to divest itself of Western Union (the Kingsbury Commitment). Thereafter, the two companies consolidated their own market positions and directly competed only in the private line market. Even after AT&T's sale to Western Union of its teletypewriter exchange service (TWX) in 1971, AT&T has continued to play a major role in the private line record and data markets as the use of specialized terminal equipment adaptable to the telephone network has expanded rapidly.

3. International telegraph service by submarine cable was initiated between the United States and Europe in the second half of the nineteenth century. International telegraph service by high frequency radio across the Atlantic became commercially feasible in the early 1900's. By World War II the U.S. international telegraph industry had expanded substantially and had gone through a series of mergers and acquisitions. The leading carriers were Western Union, RCA and IT&T. The two latter carriers utilized high frequency radio facilities and also owned modest domestic networks primarily to feed into their international systems. In 1942 the Board of War Communications' Order Number 8 closed all domestic point to point radio telegraph circuits. In 1943, Section 222 was enacted to permit Western Union to acquire the nearly bankrupt Postal Telegraph and Cable Corporation. Western Union thus became the sole domestic telegraph carrier. Section 222 also required Western Union to divest its

international facilities. The international radiotelegraph carriers, stripped of their domestic networks and restricted to operating out of a handful of gateway cities by Order Number 8 and Section 222, became the sole providers of international telegraph (record) service. This domestic/international record dichotomy still exists although the international record carriers were authorized in the *Gateways* decision to expand the number of points from (and to) which they can provide direct international service.

4. AT&T, the dominant domestic telephone carrier, initiated transatlantic telephone message service in 1927 by high frequency radio. In 1956 AT&T developed a reliable underwater repeater and, together with the British government, laid the first transatlantic telephone cable (TAT-1). The TAT-1 submarine telephone cable could be used for transmission of international record communications; a voice-grade circuit could be subdivided into a number of telegraph-type circuits. A subdivided voice-grade circuit could be utilized for the provision of telegraph message service, telex, and leased telegraph circuits. An unsubdivided voice-grade circuit could be employed for the high speed transmission of facsimile and data. The state of the art of overseas communications was significantly enhanced by AT&T's development of deep water submarine telephone cables and reliable underwater repeaters. These technological breakthroughs set the stage for direct competition in the international record market between AT&T and the international record carriers.

5. Between completion of the TAT-1 cable and the 1964 TAT-4 the Commission faced the issue of international record carriage by AT&T on several occasions. An analysis of these decisions indicates that the Commission concluded the Act did not bar AT&T from providing international record service. It is also clear that the Commission decided each application on a case by case basis weighing a wide variety of public interest factors.

6. The Commission first authorized AT&T to enter the international record market in 1955 when it granted AT&T's application to construct and operate a cable between Point Arena, California (a domestic point), and Koko Head, Hawaii (an international point).⁴ The Commission, over the objections of the

IRCs, authorized AT&T to operate this cable (the First Mainland Cable System) without any limitation or restriction as to its use for either voice or record services. In issuing this authorization, the Commission emphasized that: (1) No provision or combination of provisions of the Act, including Section 222, barred AT&T as a matter of law from providing record service to an international point; (2) public interest considerations such as national defense needs were to be given substantial weight; and (3) the provision of the requested services would neither impair the IRCs economic ability to provide service between the mainland and Hawaii nor have a serious impact on their overall operations and structure. In 1963, the Commission authorized AT&T to construct and operate the Second Mainland Cable System between California and Hawaii. This order permitted AT&T and the Hawaiian Telephone Company "to provide any or all of the various types of communication services which the applicants are or may be authorized to furnish by means of the existing Mainland-Hawaii cable."⁵

7. The Commission initially barred AT&T from transmitting record services over its microwave relay facilities between the United States and the TAT-1 cablehead in Canada. However, in 1959 the Commission authorized AT&T to provide voice and nonvoice (teletypewriter, digital data, facsimile, etc.) communications services to the United States Air Force via its TAT-1 microwave relay facilities. In reaching this decision to allow AT&T to provide alternate or simultaneous voice-data to the U.S. government, the Commission: (1) Reiterated its belief that there was no specific statutory requirement that international voice and record communications be furnished by separate entities; (2) stated that clear distinguishable physical differences between voice and record carriers no longer existed; (3) listed several examples in which public interest factors had already led it to make several exceptions to the traditional voice/record dichotomy; and (4) found that this authorization would not economically impair the IRCs.⁶ This use of the U.S.-Canada microwave relay facilities for the provision of nonvoice service to the U.S. government over TAT-1 was thereafter extended to TAT-2. In 1961, AT&T was authorized to continue to provide alternate or simultaneous transmission of voice and

⁴ American Telephone and Telegraph Company, File No. P-C-3630, Mimeo No. 22818, adopted September 7, 1955, *recon. denied*, 44 F.C.C. 602 (1955).

⁵ American Telephone and Telegraph Company, File No. P-C-5332, Mimeo No. 34195, adopted May 1, 1963.

⁶ American Telephone and Telegraph Company, 27 F.C.C. 113, 120, 121 (1959).

nonvoice communications to the U.S. government in TAT-3 between New Jersey and the United Kingdom.⁷

8. In early 1960, the Commission authorized AT&T to provide alternate voice and nonvoice communication services between the U.S. mainland and Puerto Rico (an international point) over the existing U.S.-Puerto Rico Cable. The Commission found that this authorization, which was not limited to the provision of nonvoice services to U.S. defense agencies, was technically feasible, was needed by various users, and would not impair the financial stability and competitive status of the IRCs then providing service to Puerto Rico.⁸ Also in 1960 the Commission authorized AT&T to construct and operate (with Cable and Wireless) a cable between New Jersey and Bermuda. This authorization, for the provision of voice and nonvoice services to military and civilian users, was issued for reasons similar to those found to exist in the Puerto Rico cable decision.⁹

1964 TAT-4 Decision

9. In early 1964 the Commission considered AT&T's application to construct and operate the fourth transatlantic cable. In this application, AT&T requested authority to provide alternate voice-record communication services to all of its customers. This request extended to AT&T's microwave relay system connecting to TAT-1 and TAT-2, as well as its TAT-3 facilities. As indicated earlier, the previous TAT authorizations permitted AT&T to provide alternate voice-record services only to U.S. defense agencies. The IRCs strenuously opposed AT&T's request for expanded alternate voice-record service. They argued that they could not compete with AT&T in obtaining customers for this service and its authorization would result in severe economic injury to the IRCs. The IRCs emphasized their limited resources, small sales forces and current geographic confinement to gateway locations as the factors which would make direct competition with AT&T for civilian customers for this new service impossible.

10. On March 17, 1964, the Commission adopted its TAT-4 decision. The Commission acknowledged the importance of

alternate voice-record service to the economic well-being of the IRCs and noted the ability of the IRCs to competitively offer alternative voice-record service through ownership or indefeasible right of user (IRU) interests in the transatlantic cables. In concluding that the public interest required the continued viability of the IRCs to provide overseas message telegraph service, the Commission adopted an "infant industry" policy and stated the following:

The use by customers of leased circuits for alternate voice-record use is, with the exception of the defense agencies, a new service. It is in its infancy, and we do not feel that we should jeopardize the opportunity of the record carriers to provide such services by also allowing AT&T, with its huge resources, as compared with those of the record carriers, to compete with such carriers in providing the service. A realistic appraisal of the relative capabilities of AT&T and the record carriers to secure and maintain such business leads us to conclude that AT&T's entry into this service would seriously jeopardize the ability of the record carriers to obtain a meaningful share of the business. In this connection we note that the total overall revenues of the Bell System for 1963 were some \$9.6 billion. Its revenues derived from its overseas services for that year were \$65.5 million, or much less than 1 percent of its total revenues. The amount of such overseas revenues derived from record services is a small portion of this latter amount. Loss of the revenue derived from these record services would have an inconsequential impact on the overall revenue picture of the Bell System. The provision of overseas telegraph services is, however, for the most part, 100 percent of the business of the international record carriers, and a significant loss in their participation in the telegraph business could have a serious effect on the viability of the international telegraph industry as a whole. This is a risk the record carriers should not be called upon to take, particularly in view of the fact that a substantial portion of this business will be diverted from existing overseas services. It is in the public interest that we assure the viability of the record carriers by protecting them from the losses they would inevitably suffer were AT&T permitted to provide this voice-record service. These losses could affect their ability to continue to provide the still important overseas message telegraph service at anything approximating current rates. We note that when we permitted AT&T and the record carriers to compete for the business of the defense agencies for leased circuits for alternate and simultaneous voice-record use, AT&T received all the leases despite the fact that it was then authorized to provide circuits to the international record carriers for their use in competing with it for this business * * *

Accordingly, for the reasons set forth above, we find and conclude that it is in the public interest that the international record carriers only, and not AT&T, should be authorized to provide leased circuits for

alternate voice-record use, and we shall grant the AT&T applications for modification of its existing authorizations so as to permit it to provide circuits to the international record carriers so that they may provide such service, but shall deny them in all other respects insofar as they relate to alternate voice-record use. 37 F.C.C. 1158-1160.

11. The Commission's decision, although based on an economic analysis of the IRCs' market position, does not present a plethora of economic data. However, by 1964, the widespread expansion of AT&T owned cables between North America (United States and Canada) and France, the United Kingdom, and various Caribbean points was perceived to present a threat to the economic health of the IRCs. This was due, in major part, to the technological superiority of cable over radio for the high volume transmission of both voice and record communications. The introduction of indefeasible right of user interests by the Commission in early 1964 eliminated the substantial rentals which the IRCs previously paid to lease cable circuits. IRU interests were considered to be the most efficient and economic means through which the IRCs could acquire cable facilities. IRU interests, a capital investment, increased a carrier's rate base while decreasing its expenses, thus creating a more competitive entity which could offer its services at lower charges. IRU interests acted to transform lessees into owners and financially strengthened the IRCs. It appears that barring AT&T from providing alternate voice-record service internationally was viewed as a reasonable expansion of this effort to protect and nurture the IRCs.

12. The TAT-4 decision barred AT&T from providing alternate voice-data service except in two instances. The first exception was between the U.S. mainland and Hawaii where AT&T was permitted to retain its authorization to provide those services which it was furnishing in the continental U.S.¹⁰ The second exception was for circuits leased by U.S. defense agencies. After the TAT-4 decision the international record carriers were authorized to provide telegraph message service; telex service; leased telegraph channel service; facsimile (including photo), data and program transmission services; including voice for cue and contact control; any other record service; leased circuits for alternate voice-record use; and leased circuits for alternate and simultaneous voice and nonvoice use by defense agencies of the U.S. Government. AT&T was authorized to

¹⁰ Consistent with this exception to the TAT-4 decision, AT&T was authorized to extend its Dataphone service to Hawaii in 1965. 38 F.C.C. 1222.

⁷ American Telephone and Telegraph Company, File Nos. P-C-4714 and S-C-L-22, Mimeo Nos. 584 and 583, (1961).

⁸ American Telephone and Telegraph Company, 28 F.C.C. 221 (1960).

⁹ American Telephone and Telegraph Company, File Nos. P-C-4612 and S-C-L-18, Mimeo Nos. 91694 and 91694, adopted July 27, 1960.

provide message telephone service; private line circuits for voice use only; and program transmission service.

1964 to 1980

13. Since 1964, the Commission has consistently protected the IRCs from competition by AT&T in the international record market. However, as early as 1972 the Commission noted the viability which the IRCs had achieved through the protection offered by the *TAT-4* decision and stated that a considerable amount of the rationale for the *TAT-4* decision had been dissipated by the passage of time.¹¹ Additionally, the *TAT-4* bar has not been absolute. Waivers have been issued under special circumstances such as NASA programs.¹² The major case between 1964 and 1980 concerning international record carriage is our 1980 *Dataphone* decision.¹³ While this recent decision expressly did not modify the *TAT-4* decision, it indicated that the present international voice/record dichotomy is based on policy, not law. In authorizing AT&T to employ its overseas MTS network for the transmission of facsimile, data and other record communications on a secondary basis, the Commission emphasized that such use was an efficient utilization of facilities, satisfied an unmet need, and gave added flexibility to AT&T's customers. We stated that additional competition in the international record market would stimulate the IRCs to innovate and provide services more efficiently at cost-based rates in order to compete effectively. We also found that the introduction of overseas dataphone service would not undermine the IRCs.

The IRCs

14. The restrictions contained in the IRCs' authorizations prior to our *Datel* decision on the provision of voice service stemmed from the Commission's perception of the international voice and record markets as two separate entities, rooted in different technologies. The Commission has traditionally viewed international voice carriage as best provided through a single entity and the IRCs have rarely offered voice services. However, voice and record transmissions now employ common facilities and record services are provided over fractions or multiples of

voice grade circuits. In *Datel* we found that the public interest would be served by the removal of the restrictions which limited voice-use *Datel* service related facilities to cueing, contact and/or control purposes. Our goal of establishing an improved international communications system with lower rates through market structure modifications which facilitate and encourage the entry of one or more new competitors lead us to conclude that the limitations placed on the IRCs in regard to providing international voice services may no longer best serve the public interest.

The Act

15. The Commission has consistently held that the Communications Act of 1934, as amended, does not prohibit it from authorizing AT&T to provide record services internationally. Additionally, the Act does not bar the IRCs from offering international voice services. In the *First Mainland Cable System* decision, the Commission in 1955 stated that Section 222 of the Act was directed at telegraph carriers and was not applicable to AT&T. The Commission found that the major portion of AT&T's traffic and revenues was not derived from telegraph operations and that therefore AT&T was not a telegraph carrier within the meaning of Section 222. The Commission further stated that no other section or combination of sections in the Act could be found to prohibit AT&T, as a matter of law, from providing international record service.¹⁴ The Commission, in its 1959 decision authorizing AT&T to provide alternate voice-data service to defense agencies of the U.S. government over its microwave relay facilities between the U.S. and the TAT-1 Canadian cablehead, stated that there was no specific statutory requirement that international record and voice communications be furnished by separate entities.¹⁵ The *TAT-4* decision itself lends further evidence that any prohibition or limitation on AT&T's provision of international record service is a matter of policy, not law. The Commission's *TAT-4* decision utilizes public interest considerations, not a statutory analysis, in reaching the conclusion that AT&T should be barred from providing alternate voice-data service internationally. Furthermore, the *TAT-4* decision is only a partial ban on the provision of alternate voice-data service by AT&T.

Discussion and Analysis

16. Market structure modifications which enhance competition in an expanding market produce substantial benefits to users. Better service, new service offerings, more efficient and innovative service, and lower prices may all result from additional competition. Expansion of competition to achieve these beneficial results is consistent with our public interest responsibilities. We tentatively conclude that an analysis of prior cases, the language of the Act, and the *TAT-4* decision itself indicate that the ban on AT&T providing international record services is one of policy, not law. We also tentatively find that the facts and circumstances which prompted us in 1964 to prohibit AT&T from providing alternate voice-record service no longer exist and that there is no justification for continuing the artificial division of the international market into voice and record segments. The IRCs are no longer struggling enterprises with dubious financial futures which must be kept afloat because they are the sole providers of a crucial service. The IRCs are now firmly established businesses with significant market shares, substantial rate bases, and impressive rates of return.¹⁶ Furthermore, the IRCs are no longer the only entities capable of providing overseas message telegram service, a service which has decreased in relative size and importance since 1964.¹⁷ We therefore tentatively conclude that the policy enunciated in our *TAT-4* decision barring AT&T from providing alternate voice-data service should be set aside and that AT&T should be permitted to provide this service. We also tentatively conclude that the public interest would be served by permitting AT&T to provide any nonvoice service on a primary, nonancillary basis.

17. Our conclusion that AT&T's entry into the international record market would be in the public interest is based on an analysis of the Act, past cases, our *TAT-4* decision, the present market structure, and the benefits which

¹¹ *RCA Global Communications, Inc.*, 37 F.C.C. 2d 1043 (1972).

¹² *American Telephone and Telegraph Company*, 70 F.C.C. 2d 1048 (1978) and *American Telephone and Telegraph Company, et al.* File Nos. W-P-C-649-4 et al. Mimeo No. 34701, released August 14, 1980.

¹³ *American Telephone and Telegraph Company*, 75 F.C.C. 2d 682 (1980).

¹⁴ 44 F.C.C. at 605.

¹⁵ 27 F.C.C. at 120.

¹⁶ IRC gross plant investment has grown from nearly \$200 million in 1964 to approximately \$700 million in 1978, a 12 percent growth rate in 1972 dollars. Statistics of Communications Common Carriers, p. 154, (1978). Revenues from message, telex and private line services have increased from \$89.9 million in 1964 to \$397.8 million in 1978, a 15.1 percent growth rate in 1972 dollars. Statistics of Communications Common Carriers, Table 25 (1978).

¹⁷ Public message telegram service provided \$58.0 million in revenues in 1964 but only \$37.1 million in 1978. This service provided 64 percent of the IRCs' revenues in 1964 but only 9 percent in 1978. Statistics of Communications Common Carriers, Table 25 (1978).

additional competition in an expanding market produce.

However, we have not made a detailed and complete economic analysis of the effects of AT&T entry into the international record market. We therefore invite comments not only on our analysis of the Act, prior cases, the *TAT-4* decision, the present market structure and the benefits of added competition, but particularly on the economic impact on the IRCs, on the market structure and on the ultimate consumers of telecommunications services if AT&T is authorized to expand into the international record market. Just as *Datel* provided symmetry to the *Dataphone* decision, we invite comments as to what voice services the IRCs should be authorized in order to create a downward pressure on AT&T's rates and increase consumer choice. Comments should particularly address short and long term effects on consumers as well as the economic impact on the IRCs and AT&T and the U.S. international communications market. As indicated in the *Procedures* section, comments should be as detailed as possible and indicate what international services (if any) AT&T and the IRCs should be permitted to provide and the individual and cumulative effects of each on the public, the IRCs, AT&T, and the international record market structure. Parties are also invited to comment on the relationship between the tentative conclusions and various technological advancements, including the institution of an integrated services digital network. We must emphasize, however, that our primary concern relates to the long and short term effects that the proposed market structure modifications will have on consumers.

Procedures

18. The central issues to be addressed in this rulemaking proceeding are whether, as a matter of policy, (1) AT&T should be authorized to provide international record services and (2) the IRCs should be authorized to provide international voice service. The primary purpose of this document is to elicit information which will enable the Commission to determine whether to alter its policy limiting (1) AT&T's participation in the international record market so as to stimulate competition in the provision of international record services and (2) the IRCs participation in the international voice market so as to complement AT&T's entry into the international record market and to stimulate competition in the offering of international voice services. In accordance with sound administrative practice and the Administrative

Procedure Act, we invite public participation by all interested parties in the form of written comments. Parties should clearly address their responses to the questions raised as well as any related matter they deem relevant. All submissions of economic and financial data should be substantiated by studies conducted in conformance with Section 1.363 of the Commission's Rules. Where no study has been undertaken, either because of unavailability of data or other reasons, an explanation of the difficulties should be attached. If loss of revenues or increase in costs is alleged, the identity of the specific service affected and best estimates of the impact on costs and revenues threatened should be included. We urge all interested parties to respond in a timely fashion to enable the Commission to render an expeditious clarification or modification of its existing policy. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a document indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

19. Accordingly, it is ordered that, pursuant to sections 4(i), 4(j), 201, 202, 204, 205, 214, and 403 of the Communications Act of 1934, as amended, and section 553(b) of the Administrative Procedure Act, a proposed rulemaking or formulation of general policy in this matter is instituted.

20. It is further ordered that interested parties shall file comments concerning the proposed change in policy on or before December 12, 1980. Replies shall be filed on or before January 16, 1981.

21. It is further ordered that, in accordance with the provisions of § 1.419 of the Commission's rules and regulations, all participants in the proceeding ordered herein shall file with the Commission an original and five (5) copies of all comments and reply comments. Copies of comments and reply comments filed in this proceeding shall be available for public inspection during regular business hours in the Commission's reference room at its headquarters at 1919 M Street, NW., Washington, D.C.

22. For purposes of this non-restricted informal rulemaking proceeding members of the public are advised the *ex parte* contacts are permitted from the time of issuance of a notice of proposed rulemaking until the time a draft order proposing a substantive disposition of

such proceeding is placed on the Commission's Sunshine Agenda. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and oral arguments) between a person outside the Commission and a Commissioner or a member of the Commissioner's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any written comments previously filed in the proceeding must prepare a written summary of that presentation. On the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation discussed above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission's rules, 47 CFR 1.1231.

Federal Communications Commission.

William J. Tricarico,
Secretary.

[FR Doc. 80-36092 Filed 11-18-80; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1116

[Ex Parte No. 382]

Recordation of Documents; Retention Schedule for Documents Recorded with the Commission

AGENCY: Interstate Commerce Commission.

ACTION: Notice of withdrawal of proposed rule.

SUMMARY: On July 30, 1980, the Commission issued for public comment (45 FR 52186, August 6, 1980) a proposed retention schedule for documents recorded with the Commission under 49 U.S.C. 11303.

The Commission has reviewed the public comment and has concluded that it would not be in the best interest of the public to adopt the proposed measure. Accordingly, the rule will not be adopted and this proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: James H. Bayne or Joseph Ross, (202) 275-7646, (202) 275-0993.

SUPPLEMENTARY INFORMATION: We have received and reviewed the public comment submitted about our proposed retention schedule to have been contained in 49 CFR 1116.5(a). Our original purpose was to deal with space problems caused by perpetual retention of the documents which are filed with the Commission under 49 U.S.C. 11303. The members of the public who commented on our proposal have raised serious legal and practical objections to our proposal. After considering the public comments, we are persuaded that our proposed regulation should be withdrawn and this proceeding should be terminated. The Office of the Secretary will continue to explore alternative solutions to our space problems. However, these alternatives will not involve destruction or removal of any of the documents filed under 49 U.S.C. 11303.

This is not a significant action adversely affecting the quality of the human environment or the conservation of energy resources.

(49 U.S.C. 11303 and 5 U.S.C. 553)

Decided: November 12, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam. Commissioner Clapp absent and not participating in the proceeding.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-36058 Filed 11-18-80; 8:45 am]

BILLING CODE 7035-01-M

Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

CIVIL AERONAUTICS BOARD

[Docket 38948]

Muse Air Corporation Fitness Investigation; Assignment of Proceeding

This proceeding is hereby assigned to Administrative Law Judge William A. Kane, Jr. Future communications should be addressed to him.

Dated at Washington, D.C., November 13, 1980.

Joseph J. Saunders,
Chief Administrative Law Judge.

[FR Doc. 80-36117 Filed 11-18-80; 8:45 am]

BILLING CODE 6320-01-M

[Docket 38819]

Trans World Airlines, Inc., Civil Penalties for Violations of Part 250; Hearing

Notice is hereby given that a hearing in the above-entitled matter is assigned to be held on December 9, 1980, at 10:00 a.m. (local time), in Room 1003, Hearing Room A., Unversal Building North, 1875 Connecticut Avenue, N.W., Washington, D.C., before the undersigned Administrative Law Judge.

Dated at Washington, D.C., November 12, 1980.

Joseph J. Saunders,
Chief Administrative Law Judge.

[FR Doc. 80-36116 Filed 11-18-80; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

National Technical Information Service

New Standard Price Schedule Effective January 1, 1981

The National Technical Information Service (NTIS), and operating unit of the Department of Commerce, has adopted

a new Standard Price Schedule to become effective January 1, 1981.

Pursuant to 15 U.S.C. § 1151-1157, NTIS operates a clearinghouse for the collection and public sale of scientific, technical and other specialized reports prepared by Government agencies, their contractors and grantees, and by Special Technology Groups. 15 U.S.C. § 1153 authorizes NTIS to issue schedules of fees and requires the agency to sell its reports on a self-supporting basis so that "the general public shall not bear the cost of publications and other services which are for the special use and benefit of private groups and individuals."

NTIS has determined that, to continue recovering its full costs of collecting, printing, and disseminating paper copies of technical reports, a new Standard Price Schedule must be adopted effective January 1, 1981. The new schedule is as follows:

Standard Price Schedule

Page range	North American	Foreign
Microfiche:	\$3.50	\$7.00
001-025.....	5.00	10.00
026-050.....	6.50	13.00
051-075.....	8.00	16.00
076-100.....	9.50	19.00
101-125.....	11.00	22.00
126-150.....	12.50	25.00
151-175.....	14.00	28.00
176-200.....	15.50	31.00
201-225.....	17.00	34.00
226-250.....	18.50	37.00
251-275.....	20.00	40.00
276-300.....	21.50	43.00
301-325.....	23.00	46.00
326-350.....	24.50	49.00
351-375.....	26.00	52.00
376-400.....	27.50	55.00
401-425.....	29.00	58.00
426-450.....	30.50	61.00
451-475.....	32.00	64.00
476-500.....	33.50	67.00
501-525.....	35.00	70.00
526-550.....	36.50	73.00
551-575.....	38.00	76.00
576-600.....	39.50	79.00

Note: Add \$1.50 to the North American Price and \$3.00 to the Foreign Price for each 25-page increment (or portion thereof) by which a report exceeds 600 pages in length.

North American Prices are charged for orders shipped within the United States of America, including its territories and possessions, or to Canada or Mexico. Foreign Prices are charged for orders shipped elsewhere.

Certain NTIS products (including subscriptions, standing orders, SRIM, domestic microfiche, and the like), the costs to NTIS of which may be substantially higher or lower than typical technical reports, are specially priced as "exceptions" to the Standard Price Schedule. The prices of these

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exception-priced products are no altered at this time. The prices of microfiche and subscription items are not affected by the notice.

Inquiries concerning the new Standard Price Schedule may be directed to Dr. Melvin J. Josephs, Chief, Product and Program Management Division, NTIS, 5285 Port Royal Road, Springfield, VA 22161, (703) 487-4734.

Melvin S. Day

Director.

[FR Doc. 80-36009 Filed 11-18-80; 8:45 am]

BILLING CODE 3510-04-M

COMMODITY FUTURES TRADING COMMISSION

Advisory Committee on State Jurisdiction and Responsibilities Under the Commodity Exchange Act; Meeting

This is to give notice, pursuant to Section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. I, § 10(a), that the Commodity Futures Trading Commission's Advisory Committee on State Jurisdiction and Responsibilities under the Commodity Exchange Act ("Advisory Committee on State Jurisdiction and Responsibilities" or "Advisory Committee") will conduct a public meeting in the Fifth Floor Hearing Room at the Commission's Washington, D.C., headquarters located at Room 532, 2033 K Street NW., Washington, D.C. 20581, on December 4, 1980, beginning at 10:00 a.m. and lasting until 4:00 p.m. The proposed Commodity Pools Guidelines which have been distributed for public comment by the North American Securities Administrators Association will be the primary subject of the meeting.

The Advisory Committee on State Jurisdiction and Responsibilities is an advisory committee created by the Commission for the purpose of receiving advice and recommendations on such matters as state enforcement of the Commodity Exchange Act and enforcement of general state criminal and civil antifraud laws in the commodity area. The purposes and objectives of the Advisory Committee on State Jurisdiction and Responsibilities are more fully set forth at 45 FR 27972 (April 25, 1980).

The meeting is open to the public. The Chairman of the Advisory Committee on State Jurisdiction and Responsibilities,

John G. Gaine, General Counsel of the Commission, is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Advisory Committee should mail a copy of the statement to the Advisory Committee on State Jurisdiction and Responsibilities, c/o William E. Gressman, Office of the General Counsel, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, before the meeting. Members of the public who wish to make oral statements should inform William E. Gressman, telephone (202) 254-5529, at least five days before the meeting and reasonable provision will be made for their appearance, to the extent time permits, at the conclusion of the session on December 4, 1980, to present oral statements of no more than ten minutes each in duration.

Issued in Washington, D.C., November 14, 1980.

By the Commission.

Jane K. Stuckey,
Secretary of the Commission.

[FR Doc. 80-36056 Filed 11-18-80; 8:45 am]

BILLING CODE 6351-01-M

CONSUMER PRODUCT SAFETY COMMISSION

Product Safety Advisory Council; Meeting

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of Meeting: Product Safety Advisory Council.

SUMMARY: This notice announces a meeting of the Product Safety Advisory Council on Thursday, December 4, 1980, 12:00 Noon—6:00 p.m., and Friday, December 5, 1980, 8:30 a.m.—3:00 p.m. The meeting will be held at 1111 18th Street, NW, Washington, DC 20207, Third Floor Conference Room.

FOR FURTHER INFORMATION CONTACT: Barbara Rosenfeld, Director, Office of Public Participation, Office of the Secretary, Suite 300, 1111 18th Street, NW, Washington, DC 20207, 202/634-7700.

SUPPLEMENTARY INFORMATION: The Product Safety Advisory Council was established by Section 28 of the Consumer Product Safety Act, which provides that the Commission may consult with the Council before prescribing a consumer product safety rule or taking other action under the Act.

The agenda for the meeting will include further discussion of recall

effectiveness; a briefing on the status of urea-formaldehyde foam insulation regulatory action, discussion of a proposed rule on findings under Section 9(c) of the CPSA, and a consideration of a possible role for the Council in relation to petitions and emerging hazards.

The meeting is open to the public; however, space is limited. Persons who wish to make oral or written presentation to the Product Safety Advisory Council should notify the Office of the Secretary (see address above) by November 26, 1980. The notification should list the name of the individual who will make the presentation, the person, the company, group or industry on whose behalf the presentation will be made, the subject matter, and the approximate time requested. Time permitting, these presentations and other statements from the audience to members of the Council may be allowed by the presiding officer.

Dated: November 14, 1980.

Sadye E. Dunn,
Secretary, Consumer Product Safety Commission.

[FR Doc. 80-36144 Filed 11-18-80; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on Anti-Tactical Missiles; Advisory Committee Meeting

The Defense Science Board Task Force on Anti-Tactical Missiles (ATM) will meet in closed session on 8-9 December 1980 in Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

At its meeting on 8-9 December 1980 the Defense Science Board Task Force on ATM will review the potential enemy development of new ballistic and cruise missiles and propose and evaluate options for countering such threats.

In accordance with 5 U.S.C. App. 1 § 10(d) (1976), it has been determined that this Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. § 552b(c)(1) (1976), and that

accordingly, this meeting will be closed to the public.

M. S. Healy,
OSD Federal Register Liaison Officer,
Washington Headquarters Services,
Department of Defense.

November 14, 1980.

[FR Doc. 80-36029 Filed 11-18-80; 8:45 am]

BILLING CODE 3810-70-M

DEPARTMENT OF EDUCATION

Program of Research Grants on Organizational Processes in Education

AGENCY: Department of Education.

ACTION: Application Notice for New Projects Under the Program of Research Grants on Organizational Processes in Education (Elementary-Secondary Education Segment), National Institute of Education.

Applications are invited for new projects under the Program of Research Grants on Organizational Processes in Education (Elementary-Secondary Education Segment).

Authority for this program is contained in Section 405 of the General Education Provisions Act, as amended (20 U.S.C. 1221e).

Under this program the Director may award grants to institutions of higher education, State educational agencies, local educational agencies, public and private nonprofit or for-profit agencies and organizations, individuals, or combinations of these. Grants to for-profit organizations are subject to any special conditions that the Director may prescribe.

This notice announces one preapplication closing date and two application closing dates for new grants which are to be awarded in two cycles in Fiscal Year 1981. This notice also announces closing dates for transmittal of preapplications for review in late 1981 in anticipation of Fiscal Year 1982 closing dates and funding.

The purpose of the awards is to encourage and support research on organizational processes in, or related to, elementary and secondary schools and school districts.

Closing dates for transmittal of preapplications: Preapplications for major grants must be mailed or hand delivered by December 11, 1980, April 9, 1981, August 13, 1981, or December 10, 1981.

Closing dates for transmittal of applications: Applications for major grants and small grants must be mailed or hand delivered by December 11, 1980 or April 9, 1981.

Applications delivered by mail: An application sent by mail must be

addressed to the National Institute of Education, Proposal Clearinghouse, Mail Stop 1, 1200 19th Street, NW., Washington, D.C. 20208. The lower left hand corner of the package should display the words "Organizational Processes (Elementary-Secondary)," and the type of application, "Preapplication," "Major Grant," or "Small Grant."

Applications will be accepted for review in a particular cycle only if they are mailed on or before the closing date and proof of mailing is provided. The applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of Education.

If an application is sent through the U.S. Postal Service, neither of the following is acceptable to the Secretary as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should not that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should specifically request that a dated postmark be affixed by a local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that the application will not be considered in the current cycle, but will be held for consideration in the next review cycle, or returned upon request.

Applications delivered by hand: An application that is hand delivered must be taken to the National Institute of Education, Proposal Clearinghouse, Room 804, 1200 19th Street, NW., Washington, D.C.

The Proposal Clearinghouse will accept a hand delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted for review in the current cycle after 4:30 on the closing dates in this notice. A late hand delivered application will be held for consideration in the new review cycle, or returned upon request.

Preapplications: An applicant for a major grant must first submit a preapplication (formerly called a preliminary proposal), and may submit

an application only after receipt of NIE comments on the preapplication. Consideration of a preapplication is designed to strengthen a full application submitted later. No applicant who has submitted a preapplication will be denied the opportunity to present an application. An application may be submitted for review at any later closing date once the preapplication has been evaluated.

Preapplications are not required for small grants.

Program information: The program awards major grants and small grants. A major grant is for a project whose direct costs exceed \$15,000. A project supported by a major grant may take up to three years to complete. Initial funding in most cases will not exceed 12 months, with subsequent funding contingent upon satisfactory performance and availability of funds.

A small grant supports a project for a duration of up to 12 months with direct costs of no more than \$15,000.

The following two tables show the estimated schedule for completion of each stage of the review cycle for both types of grants.

Major Grants

Preapplications due	Comments returned	Full applications due	Decisions announced
Dec. 11, 1980.	Mar. 1981	Apr. 9, 1981	Aug. 1981.
Apr. 9, 1981 ..	June 1981	Dec. 10, 1981 ¹ .	Apr. 1982. ¹
Aug. 13, 1981.	Oct. 1981 ¹	Dec. 10, 1981 ¹ .	Apr. 1982. ¹
Dec. 10, 1981 ¹ .	Mar. 1982 ¹	Apr. 1982 ¹	Aug. 1982. ¹

¹ Dates for these activities are tentative. Final deadline dates will be published later.

Small Grants

Applications due	Decisions announced in
Dec. 11, 1980	Apr. 1981.
Apr. 9, 1981	Aug. 1981.
Dec. 10, 1981 ¹	Apr. 1982. ¹

¹ Dates for these activities are tentative. Final deadline dates will be published later.

Available funds: Approximately \$500,000 will be available for new awards of all kinds in the Program of Research Grants on Organizational Processes in Education (Elementary-Secondary Education Segment). (Additional funds are reserved for continuation awards of projects begun in earlier years.) These funds will support 2-4 major grants and 2-3 small grants in each of the two review cycles during the year. Annual costs of major awards average \$65,000, with a range from \$25,000 to \$110,000. The average

small grant award is \$14,000, with a range from \$11,000 to \$16,000.

These funding estimates do not bind the U.S. Department of Education to a specific number of grants nor to the awarding of grants for a specific amount. The total amount allocated to these awards may be increased or decreased by the Director, based on the merits of the applications received. Only projects of the highest quality will be supported, whether or not the resources of the program are exhausted.

Application instructions: A program announcement will be available for mailing in November 1980. The announcement gives further information on the program guidelines, award history and availability of funds, eligibility and review criteria, and application instructions. Applications must be prepared and submitted in accordance with the regulations and instructions included in the program announcement.

Persons who wish to receive a copy of the 1981 program announcement may do so by sending a self-addressed mailing label to the School Management and Organization Studies Team, EPO, Mail Stop 16, National Institute of Education, 1200 19th Street, NW., Washington, D.C. 20208. (A stamped envelope is not usable.)

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Program of Research Grants on Organizational Processes in Education (45 CFR Part 1480) as published in the **Federal Register** on August 12, 1980, 45 FR 53782;

(b) The Education Division General Administrative Regulations (EDGAR) (45 CFR Part 100a, Direct Grant Programs, and Part 100c, Definitions), as published in the **Federal Register** on April 3, 1980, 45 FR 22494; and

(c) The National Institute of Education General Provisions Regulations (45 CFR Parts 1400-1410), as amended and published in the **Federal Register** on April 3, 1980, 45 CFR 22543.

Further information: For further information, contact Gail MacColl, School Management and Organization Studies Team, National Institute of Education, OERI, located in Room 711-J, 1200 19th Street, NW., Washington, D.C. Telephone: 202-254-7930.

(20 U.S.C. 1221e)

(Catalog of Federal Domestic Assistance No. 84.117, Educational Research and Development; formerly 13.950)

Dated: November 13, 1980.

F. James Rutherford,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 80-35994 Filed 11-18-80; 8:45 am]

BILLING CODE 4000-05-M

Guaranteed Student Loan Program; Special Allowance for Quarter Ending September 30, 1980

The Assistant Secretary for Postsecondary Education announces that for the three-month period ending September 30, 1980, and under the statutory formula of section 438(b) of the Higher Education Act of 1965, a special allowance at an *annual* rate of 6 and three-eighths percent will be paid to holders of eligible loans in the Guaranteed Student Loan Program.

Using the statutory formula, the special allowance for this *three-month* period was computed by determining the average of the bond equivalent rates of the 91-day Treasury bills for this period (9.78 percent), by subtracting 3.5 percent from this average, by rounding the resultant percent (6.28) upward to the nearest one-eighth of 1 percent (6.375), and by dividing the resultant percent by four (1.59375 percent). Thus, the special allowance to be paid for this period will be 1.59375 percent of the average unpaid balance of principal (not including unearned interest added to principal) of all eligible loans held by lenders.

(Catalog of Federal Domestic Assistance No. 13.460, Guaranteed Student Loan Program)

(20 U.S.C. 1087-1(b))

Dated: November 14, 1980.

Albert H. Bowker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 80-36095 Filed 11-18-80; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Resource Applications, National Petroleum Council, Subcommittee on Unconventional Gas Sources; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Name: Subcommittee on Unconventional Gas Sources of the National Petroleum Council.

Date and time: December 9, 1980—1:00 p.m.

Place: Madison Hotel, Dolley Madison Room, Fifteenth and M Streets NW., Washington, D.C.

Contact: Georgia Hildreth, Director, Advisory Committee Management, Department of

Energy, 1000 Independence Avenue SW., Forrestal Building, Room 8G087, Washington, D.C. 20585, Telephone: 202-252-5187.

Purpose of parent committee: To provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and gas or the oil and gas industries.

Tentative agenda:

- Introductory remarks by the Chairman and Government Cochairman of the Subcommittee.
- Review and discuss drafts of the final two volumes of the report on Unconventional Gas Sources:
 - Executive Summary.
 - Tight Gas Reservoirs.
- Discussion of any other matters pertinent to the overall assignment of the Subcommittee on Unconventional Gas Sources.
- Public Comment (10 minute rule).

Public participation: The meeting is open to the public. The Chairperson of the Subcommittee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Subcommittee will be permitted to do so either before or after the meeting. Members of the public who wish to make oral statements pertaining to the agenda items should contact the Advisory Committee Management Office at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Transcripts: Available for public review and copying at the Public Reading Room, Room 1E-190, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C., between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on November 14, 1980.

Georgia Hildreth,

Director, Advisory Committee Management.

[FR Doc. 80-36075 Filed 11-18-80; 8:45 am]

BILLING CODE 6450-01-M

Office of Assistant Secretary for International Affairs

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the sale of 660 kilograms of heavy water for use

as moderator and coolant in the JRR-2 and JRR-3 reactors at the Japan Atomic Energy Reactor Institute.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material under Contract Number S-JA-281 will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: November 13, 1980.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, Office of International Nuclear and Technical Programs.

[FR Doc. 80-36074 Filed 11-18-80; 8:45 am]

BILLING CODE 6450-01-M

Office of Assistant Secretary for International Affairs

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation Between the Government of the United States of America and the Government of the Federative Republic of Brazil Concerning Civil Uses of Atomic Energy.

The subsequent arrangement to be carried out under the above mentioned agreements is the approval for the transfer of United States origin special nuclear materials from Belgium to Brazil. The materials consist of 100 milligrams of uranium enriched to 3 percent in U-235, and 0.5 milligrams of plutonium, which is to be utilized to determine the uncertainty of the analytical measurements of uranium and plutonium isotopes, for safeguards purposes.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the approval of this retransfer, designated as RTD/BR(EU)-4 will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: November 7, 1980.

For the Department of Energy.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 80-36021 Filed 11-18-80; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Action Taken on Consent Order

AGENCY: Economic Regulatory Administration.

ACTION: Notice of settlement.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice that a Consent Order was entered into between the Office of Enforcement, ERA, and the firm listed below during the month of October 1980. The Consent Order represents resolution of an outstanding compliance investigation by the DOE and the firm and concerns overcharges in sales of propane during the period covered by the audit. This Consent Order is concerned exclusively with the firm's agreement to refund overcharges through price reduction on all customer purchases.

For further information regarding this Consent Order please contact James C. Easterday, District Manager of Enforcement, Southeast District, Economic Regulatory Administration, 1655 Peachtree Street, N.E., Atlanta, Georgia 30367, telephone number (404) 881-2396.

Firm name and address: General Development Utilities, Inc.

Settlement terms: Refund \$456,000.00, including interest, through price reduction on customer purchases, payment of \$4,000.00 penalty.

Period covered: November 1, 1973 through December 31, 1976.

Issued in Atlanta, Georgia, on the 4th day of November 1980.

James C. Easterday,

District Manager of Enforcement.

[FR Doc. 80-36022 Filed 11-18-80; 8:45 am]

BILLING CODE 6450-01-M

Reynolds Oil Co.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on consent order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and on potential claims against the refunds deposited in an escrow account

established pursuant to the Consent Order.

DATES: Effective date: October 28, 1980. Comments by: December 18, 1980.

ADDRESS: Send comments to: Kenneth E. Merica, District Manager of Enforcement, Economic Regulatory Administration, P.O. Box 26247, Belmar Branch, Lakewood, Colorado, 80226.

FOR FURTHER INFORMATION CONTACT: Kenneth E. Merica, District Manager of Enforcement, Economic Regulatory Administration, P.O. Box 26247, Belmar Branch, Lakewood, Colorado 80226, (303) 234-3195.

SUPPLEMENTARY INFORMATION: On October 28, 1980, the Office of Enforcement executed a Consent Order with Reynolds Oil Company (ROC) of Kremmling, Colorado. Under 10 CFR 205.199j(b), a Consent Order which involves a sum of less than \$500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

I. The Consent Order

ROC, with its home office located in Kremmling, Colorado, is a firm engaged in the business of purchasing covered products and reselling them to wholesale purchasers and ultimate consumers, without substantially changing their form and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211 and 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of ROC, the Office of Enforcement of ERA and ROC entered into a Consent Order, the significant terms of which are as follows:

1. ERA alleged that ROC violated the gasoline price regulations contained in 10 CFR 212.93(a)(1) of the Mandatory Petroleum Price Regulations by exceeding its "maximum legal selling price" for the covered gasoline products sold to ROC's wholesale and retail customers, during the period July 1, 1979, through November 30, 1979 (audit period).

2. ROC has agreed to pay \$2,500 into a special fund administered by ERA in settlement of the alleged overcharges to its wholesale customers during that period.

3. ROC has agreed to refund alleged overcharges totaling \$798.58, plus interest, to its individual retail customers.

4. ROC has agreed to pay a civil penalty of \$500.00.

5. The provisions of 10 CFR 205.199j are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, ROC agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of ROC's sales to its wholesale customers during the audit period, the sum of \$2,500, on or before December 31, 1980. Refund of those overcharges will be in the form of a certified check made payable to the United States Department of Energy and will be delivered to the assistant administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have been passed through as higher prices to subsequent purchasers. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199i(a).

Furthermore, ROC agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of its sales to its retail customers during the audit period, the sum of \$798.58 plus interest, on or before December 31, 1980. Refund of those overcharges shall be in the form of individual refund payments equal to the overcharge of each customer, plus applicable interest.

III. Submissions of Written Comments

A. Potential claimant: Interested persons who believe that they have a claim to all or a portion of the settlement amount specified in I.2., above, should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established.

Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. Other comments: The ERA invites interested persons to comment on the terms, conditions, or procedural aspect of this Consent Order.

You should send your comments or written notifications of a claim to Kenneth E. Merica, District Manager of Enforcement Economic Regulatory Administration, P.O. Box 26247, Belmar Branch, Lakewood, Colorado, 80226. You may obtain a free copy of this Consent Order, with proprietary information deleted, by writing to the same address or by calling (303) 234-3195.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Reynolds Oil Company Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on December 18, 1980. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Lakewood, Colorado, on the 30th day of October, 1980.

Kenneth E. Merica,
District Manager, Rocky Mountain District,
Economic Regulatory Administration.

Concurrence by:
Charles F. Dewey,
Regional Counsel.

[FR Doc. 80-36023 Filed 11-16-80; 8:45 am]

BILLING CODE 6450-01-M

Action Taken on Consent Orders

AGENCY: Economic Regulatory Administration.

ACTION: Notice of action taken on consent orders.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice that Consent Orders were entered into between the Office of Enforcement (ERA) and the firms listed below concerning failure to meet the filing requirements of Form ERA-69, Crude Oil Reseller's Self-Reporting Form, as set forth in the Mandatory Petroleum Price Regulations, 10 CFR Part 212, Subpart L. Pursuant to 10 CFR 205.203, each of the consenting firms has agreed to make payments, as specified below. The Consent Orders do not address or limit any liability with respect to the consenting firms except as related to the

requirement to file ERA-69 reports. The consenting firms generally agree to recognize and comply with the reporting requirements of 10 CFR 212.187 by filing (1) any overdue reports and (2) all future monthly reports on or before their due dates.

FOR FURTHER INFORMATION REGARDING THESE CONSENT ORDERS, PLEASE

CONTACT: E. W. Dorcheus, Director, Crude Oil Programs Division, Department of Energy, Economic Regulatory Administration, Enforcement Program Operations, 2000 M Street NW., Washington, D.C. 20461, Telephone Number (202) 653-3517.

Issued in Washington, D.C. on this 7th day of November, 1980.

James J. Fenton,
Acting Director, Enforcement Program
Operations Division, Economic Regulatory
Administration.

Consent Orders Entered

Firm	Address	Consent order date	Payment pursuant to 10 CFR section 205.203
West Texas Marketing Corp. and J.T. Trading Co.	1150 Estates Drive, Abilene, TX 79604.	09/30/80	\$4,500.00
Bluebird Oil Co., Inc.	5540 Raytown Road, Raytown, MO 64133.	10/02/80	1,000.00
Laser Gathering Corp.	No. 1 Gallery Court, San Antonio, TX 78209.	10/02/80	500.00
Petrocal, Inc.	14113 Bronte Dr., Whittier, CA 90602.	10/07/80	10,700.00

[FR Doc. 80-36101 Filed 11-16-80; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 80-CERT-021A]

Arizona Public Service Co.; Application for Amendment to a Certification of the Use of Natural Gas to Displace Fuel Oil

On July 31, 1980, the Economic Regulatory Administration (ERA) issued to Arizona Public Service Company (Arizona Public) a certification (80-CERT-021, 45 FR 52198, August 6, 1980) of an eligible use of natural gas to displace fuel oil at Arizona Public's Ocotillo Plant, Tempe, Arizona; West Phoenix Plant, Phoenix, Arizona; Saguaro Plant, Red Rock, Arizona; and Yuma Plant, Yuma, Arizona, pursuant to 10 CFR Part 595 (44 FR 37920, August 16, 1979). Based upon information submitted in Arizona Public's application, the ERA certification issued listed Delhi Gas Pipeline Corporation and Bixco, Inc. as eligible sellers. The transporter of this

natural gas was indicated to be El Paso Natural Gas Company.

On October 22, 1980, Arizona Public filed a request with ERA to amend its certification to include the following additional eligible sellers: Consumers Power Company, 212 W. Michigan Ave., Jackson, Michigan 49201; and Gas Company of New Mexico, a division of Southern Union Company, Suite 1800, First National Building, Dallas, Texas 75270. Arizona Public also requested that the following additional interstate pipelines be added as transporters in order to accommodate gas purchases from these additional sellers: Panhandle Eastern Pipe Line Company, P.O. Box 1642, Houston, Texas 77001; Trunkline Pipe Line Company, P.O. Box 1642, Houston, Texas 77001; and Natural Gas Pipeline Company of America, 122 South Michigan Avenue, Chicago, Illinois 60603. More detailed information is contained in the application and the request for amendment, both of which are on file with the ERA and available for public inspection at the ERA, Division of Natural Gas Docket Room, Room 7108, 2000 M Street NW., Washington, D.C. 20461, from 8:30 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this request for an amendment to submit comments in writing to the Economic Regulatory Administration, Division of Natural Gas, Room 7108, RG-55, 2000 M Street NW., Washington, D.C. 20461, Attention: Mr. Albert F. Bass, on or before December 1, 1980.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this amendment may be requested by any interested person in writing on or before December 1, 1980. The request should state the person's interest, and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines that an oral presentation is necessary, further notice will be given to Arizona Public and any persons filing comments and will be published in the Federal Register.

Issued in Washington, D.C., on November 13, 1980.

F. Scott Bush,

Assistant Administrator, Office of Regulatory Policy, Economic Regulatory Administration.

[FR Doc. 80-36073 Filed 11-18-80; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 80-CERT-041]

Capco Pipe Co., Inc.; Application for Recertification of the Use of Natural Gas To Displace Fuel Oil

On December 28, 1979, Capco Pipe Company, Inc. (Capco), formerly Cement Asbestos Products Company, 1400 Twentieth Street, South, P.O. Box 3435, Birmingham, Alabama 35255, was granted a certificate of eligible use of natural gas to displace fuel oil by the Administrator of the Economic Regulatory Administration (ERA) (Docket No. 79-CERT-107). The certification involved the purchase of natural gas from Alabama Gas Corporation for use by Capco at its production facility located in Ragland, Alabama. The gas was transported by the Southern Natural Gas Company. The ERA certificate expires on December 27, 1980.

On November 4, 1980, Capco filed an application for recertification of an eligible use of natural gas to displace fuel oil at the Ragland facility pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). More detailed information is contained in the application on file with the ERA and available for public inspection at the ERA, Division of Natural Gas Docket Room, Room 7108, 2000 M Street NW., Washington, D.C. 20461, from 8:30 a.m. to 4:30 p.m. Monday through Friday, except Federal holidays.

In its application, Capco states that the volume of natural gas for which it requests recertification is up to 575 Mcf per day. The use of this gas is estimated to displace the use of up to 4164 gallons (99 barrels) of No. 2 fuel oil (0.12 percent sulfur) per day at the Ragland facility.

The eligible seller of the natural gas is Alabama Gas Corporation, 1918 First Avenue, Birmingham, Alabama 35295. The gas will be transported by Southern Natural Gas Company, P.O. Box 2563, Birmingham, Alabama 35202.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Room 7108, RG-55, 2000

M Street NW., Washington, D.C. 20461, Attention: Albert F. Bass, on or before December 1, 1980.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing on or before December 1, 1980. The request should state the person's interest, and if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines that an oral presentation is necessary, further notice will be given to Capco and any persons filing comments and will be published in the **Federal Register**.

Issued in Washington, D.C. on November 13, 1980.

F. Scott Bush,

Assistant Administrator, Office of Regulatory Policy, Economic Regulatory Administration.

[FR Doc. 80-36076 Filed 11-18-80; 8:45 am]

BILLING CODE 6450-01-M

Crude Oil Buy/Sell Program; First Supplemental Notice for Allocation Period of October 1, 1980, Through March 31, 1981

The notice specified in 10 CFR 211.65(g)(1) of the crude oil allocation (buy/sell) program for the allocation period of October 1, 1980, through March 31, 1981, was issued September 17, 1980 (45 FR 63046, September 23, 1980). The ERA hereby issues a first supplemental buy/sell list for the allocation period of October 1, 1980, through March 31, 1981. This supplemental notice sets forth an allocation issued at the direction of DOE's Office of Hearings and Appeals (OHA), and an adjustment to a regular allocation. Additionally, refiner-sellers' obligations are herein adjusted to account for sales made during previous allocation periods, for which credit was not properly given.

The buy/sell list is set forth as an appendix to this notice. The list includes the names of the small refiners granted allocations and their eligible refineries, the quantity of crude oil each refiner is eligible to purchase, the fixed percentage share for each refiner-seller, and the revised and additional sales obligation of each refiner-seller for the allocations listed.

The allocations for the small refiners on the supplemental buy/sell list were determined in accordance with 10 CFR 211.65 (b) and (c)(2). Sales obligations

for refiner-sellers were determined in accordance with 10 CFR 211.65 (e) and (f). With respect to allocations under 10 CFR 211.65(b), for the allocation period of October 1, 1980, through March 31, 1981, each refiner-buyer shall be entitled to purchase, for each of its refineries that is determined by ERA not to have access to imported crude oil, an amount of crude oil equal to the difference between (1) the volume of crude oil runs to stills (not including crude oil processed for other refiners) at the eligible refinery in the period October 1, 1979, through March 31, 1980, and (2) the volume of crude oil runs to stills (not including crude oil runs attributable to purchases under 10 CFR 211.65 or crude oil processed for other refiners) at the eligible refinery in the period April 1, 1980, through September 30, 1980 (calculated by using the level of the crude oil runs to stills at that refinery in the period April 1, 1980, through July 31, 1980 for the entire six-month period).

The buy/sell list covers PAD Districts I through V, and amounts shown are in barrels of 42 gallons each, for the specified period. Pursuant to 10 CFR 211.65(f), each refiner-seller shall offer for sale during an allocation period, directly or through exchanges to refiner-buyers, a quantity of crude oil equal to that refiner-seller's sales obligation plus any volume that the ERA directs the refiner-seller to sell pursuant to 10 CFR 211.65(j).

Pursuant to 10 CFR 211.65(h), each refiner-buyer and refiner-seller is required to report to ERA in writing or by telegram the details of each transaction under the buy/sell list within forty-eight hours of the completion of arrangements. Each report must identify the refiner-seller, the refiner-buyer, the refineries to which the crude oil is to be delivered, the volumes of crude oil sold or purchased, and the period over which the delivery is expected to take place.

The procedures of 10 CFR 211.65(j) provide that if a sale is not agreed upon subsequent to the date of publication of this notice, a refiner-buyer that has not been able to negotiate a contract to purchase crude oil may request that the ERA direct one or more refiner-sellers to sell a suitable type of crude oil to such refiner-buyer. Such request must be received by the ERA no later than 20 days after the publication date of this supplemental buy/sell notice. Upon such request, the ERA may direct one or more refiner-sellers that have not completed their required sales to sell crude oil to the refiner-buyer.

Refiner-buyers making requests for directed sales must document their

inability to purchase crude oil from refiner-sellers by supplying the following information to ERA:

(i) Name of the refiner-buyer and of the person authorized to act for the refiner-buyer in buy/sell program transactions;

(ii) Name and location of the refineries for which crude oil has been sought, the amount of crude oil sought for each refinery, and the technical specifications of crude oils that have historically been processed in each refinery;

(iii) Statement of any restrictions, limitations, or constraints on the refiner-buyer's purchases of crude oil, particularly concerning the manner or time of deliveries;

(iv) Names and locations of all refiner-sellers from which crude oil has been sought under the supplemental buy/sell notice, the refineries for which crude oil has been sought, and the volume and specifications of the crude oil sought from each refiner-seller;

(v) The response of each refiner-seller to which a request to purchase crude oil has been made, and the name and telephone number of the individual contacted at each such refiner-seller;

(vi) Such other pertinent information as ERA may request.

Please note change of address. All reports and applications made under this notice should be addressed to: Robert G. Bidwell, Jr., Chief, Crude Oil Allocation and Production Branch, 2000 M Street, NW., Room 6318, Washington, D.C. 20461.

TWX's may be sent to 710-822-9454 (answer back EVFTJ WSH).

Also note that, the telephone number for the Crude Oil Allocation and Production Branch is 202-653-3420.

A copy of the decision and order issued by OHA granting exception relief that provides for the assignment of the allocation listed herein may be obtained from: Economic Regulatory Administration, Public Information Office, 2000 M Street, NW., Rm. B110, Washington, D.C. 20461, (202) 653-4055.

This notice is issued pursuant to Subpart G of DOE's regulations governing its administrative procedures and sanctions, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with DOE's Office of Hearings and Appeals in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed on or before December 19, 1980.

Issued in Washington, D.C. on November 13th, 1980.

Paul T. Burke,

Acting Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

Appendix

The buy/sell list for the period October 1, 1980, through March 31, 1981 is hereby amended to reflect an allocation made pursuant to a recent decision of the Office of Hearings and Appeals, an amendment to a regular allocation, and adjustments to refiner-sellers obligations. The amended lists sets forth the identity of each refiner-seller and refiner-buyer, the fixed percentage share of each refiner-seller, the additional volumes of crude oil that each refiner-seller is required to offer for sale to small refiners, and the volumes of crude oil that each refiner-buyer is eligible to purchase for each eligible refinery.

All refiner-sellers' percentage shares have been changed to reflect the Continental Oil Company and Exxon Company, U.S.A. Decision and Order issued by DOE's Office of Hearings and Appeals on March 20, 1979 (3 DOE Para. 82,551). While the refiner-sellers' percentage shares displayed are rounded to three decimal places, six decimal places have been utilized to establish actual sales obligations.

Also included in the appendix is a list of the names and addresses of the persons designated by refiner-sellers to receive service of copies of applications for emergency crude oil allocations.

Office of Hearings and Appeals Decision

On November 3, 1980, the Office of Hearings and Appeals issued an Interim Decision and Order (in Case Nos. BEE-0508, BSG-0009, and BEN-0508) in which OHA determined that Energy Cooperative, Inc. (ECI) should be designated as a refiner-buyer of 5,663,624 barrels of crude oil pursuant to the buy/sell notice for the October 1980 through March 1981 allocation period. OHA further determined that six refiner-sellers will be required to make one-half of this allocation available to ECI as specified below: 478,293 barrels by Exxon; 564,097 barrels by Amoco; 547,956 barrels by Chevron; 123,750 barrels by Marathon; 505,195 barrels by Mobil; and 612,521 barrels by Texaco.

Regular Buy/Sell Allocation

Based on recently submitted corrected runs data, ERA has adjusted the regular allocation of Caribou Four Corners, Inc. for its Woods Cross, Utah refinery from

zero barrels to 159,195 barrels for the present October 1980 through March 1981 period.

Refiner-Sellers Revised Basic Obligations October 1, 1980 Through March 31, 1981 Allocation Period

The following list corrects the regular buy/sell list for the period October 1, 1980, through March 31, 1981, which was issued on September 17, 1980 (45 FR 63046, September 23, 1980). The list credits refiner-sellers with sales under the program that were not correctly incorporated in the previous list.

Refiner-sellers	Share	Revised sales obligations (barrels) ¹
Amoco Oil Co.....	.105	1,301,747
Atlantic Richfield Co.....	.077	2,466,827
Chevron U.S.A., Inc.....	.102	780,760
Cities Service Co.....	.025	1,453,589
Continental Oil Co.....	.004	29,289
Exxon Co., U.S.A.....	.089	829,470
Getty Ref. & Marketing Co.....	.021	263,664
Gulf Ref. & Marketing Co.....	.091	1,522,277
Marathon Oil Co.....	.023	473,056
Mobil Oil Corp.....	.094	997,549
Phillips Petroleum Co.....	.041	900,049
Shell Oil Co.....	.114	2,783,156
Sun Co.....	.055	595,822
Texaco, Inc.....	.114	1,298,188
Union Oil Co. of Calif.....	.46	2,853,097
Total sales obligation.....		18,548,540

¹As is ERA's normal practice, this buy/sell list reflects differences between actual sales volumes in the October 1979-March 1980 allocation period, and the estimated sales volumes which were originally used to calculate the April-September 1980 allocation list (45 FR 21010, March 31, 1980). There were significant differences between the actual sales volumes and the original estimates of some refiner-sellers, and these unsold carryover amounts may have affected some refiner-sellers' sales obligations for the October 1980-March 1981 allocation period. Refiner-sellers who have questions concerning their October 1980-March 1981 sales obligations should contact the Crude Oil Allocation and Production Branch staff at their earliest convenience.

Refiner-Sellers' Additional Obligations October 1, 1980, Through March 31, 1981 Allocation Period

The following includes refiner-sellers' sales obligations for the October 1980, through March 1981 period as revised by the list set forth above and the obligations resulting from allocations listed in the notice.

Refiner-sellers	Share	Additional sales obligation (Bbls)	Total sales obligations (Bbls)
Amoco Oil Co.....	.105	609,894	1,911,641
Atlantic Richfield Co.....	.077	447,874	2,914,701
Chevron U.S.A., Inc.....	.102	591,400	1,372,160
Cities Service Co.....	.025	143,230	1,596,819
Continental Oil Co.....	.004	23,291	52,580
Exxon Co., U.S.A.....	.089	518,231	1,347,701
Getty Refining & Marketing Co.....	.021	123,531	387,195
Gulf Refining & Marketing Co.....	.091	530,529	2,052,806
Marathon Oil Co.....	.023	133,080	606,136
Mobil Oil Corp.....	.094	547,834	1,545,383
Phillips Petroleum Co.....	.041	240,919	1,140,968
Shell Oil Co.....	.114	661,577	3,444,733
Sun Co.....	.055	323,149	918,971

Refiner-sellers	Share	Additional sales obligation (Bbls)	Total sales obligations (Bbls)
Texaco, Inc.	.114	662,119	1,960,307
Union Oil Co. of Calif.	.046	266,161	3,119,258
Total sales obligations		5,822,819	24,371,359

Summary of Additional Allocations— October 1, 1980 Through March 31, 1981 Allocation Period

Energy cooperative OHA allocation	5,663,624
Caribou amended regular allocation	159,195
Total allocations	5,822,819

Contact List for Refiner-Sellers

Matthew J. Gallo, Amoco Oil Company, 200 E. Randolph Drive, P.O. Box 5910-A, Chicago, IL 60601

J. J. Hur, Atlantic Richfield Company, 515 South Flower Street, P.O. Box 2679, Los Angeles, CA 90071

Frank W. Bradley, Chevron U.S.A., Inc., 1700 K. Street, NW., Suite 1204, Washington, DC 20006

C. D. Head, Cities Service Company, P.O. Box 300, Tulsa, OK 74102

Mike McNeese, Conoco, Inc., P.O. Box 2197, Houston, TX 77001

Barbara Finney, Exxon Company, U.S.A., P.O. Box 2180, Houston, TX 77001

Eugene F. Gervino, Getty Refining & Marketing Company, P.O. Box 1650, Tulsa, OK 74102

L. G. Arnel, Gulf Oil Corporation, Gulf Building, P.O. Box 2001, Houston, TX 77001

Victor Beghini, Vice President, Marathon Oil Company, 539 South Main Street, Findlay, OH 45840

W. L. Fanning, Jr., Mobil Oil Corporation, 3225 Gallows Road, Fairfax, VA 22037

A. L. Hobbs, Phillips Petroleum Company, Phillips Building, Bartlesville, OK 74004

G. C. Carnahan, Shell Oil Company, P.O. Box 2463, Houston, TX 77001

C. Steven LeBaron, Sun Petroleum Products Company, 9th Floor, Law Department, 1608 Walnut Street, Philadelphia, PA 19103

Paul D. McNaughton, Texaco, Inc., P.O. Box 52332, Houston, TX 77052

Howard Johnson, Texaco, Inc., c/o Legal Department, 2000 Westchester Avenue, White Plains, NY 10650

W. W. Fox, Union Oil Company of California, 1650 East Golf Road, Schaumburg, IL 60196

[FR Doc. 80-36100 Filed 11-18-80; 8:45 am]

BILLING CODE 6450-01-M

[ERA Case No. 65006-9095-22-22; Docket No. ERA-FC-80-021]

Modesto Irrigation District; Tentative Staff Analysis

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Availability of Tentative Staff Analysis.

SUMMARY: On May 13, 1980, Modesto Irrigation District (Modesto) petitioned the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for a permanent peakload powerplant exemption from the provisions of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA or the Act) which prohibit the use of petroleum or natural gas in new powerplants.

Modesto plans to install a 49,900 KW oil/natural gas-fired combustion turbine unit to be known as McClure Station Unit 2 (McClure 2) in Stanislaus County, California. Modesto certifies that the unit will be operated solely as a peakload powerplant and will be operated only to meet peakload demand for the life of the plant.

ERA accepted the petition on July 15, 1980, and published notice of its acceptance in the **Federal Register** on July 21, 1980 (45 FR 48692). Publication of the notice of acceptance commenced a 45 day public comment period pursuant to Section 701 of FUA. Interested persons were also afforded an opportunity to request a public hearing. The comment period ended September 3, 1980. No comments were submitted. No hearing was requested.

ERA's staff has reviewed the information presently contained in the record of this proceeding. A Tentative Staff Analysis recommends that ERA issue an order which would grant the permanent peakload powerplant exemption to Modesto. A copy of the Tentative Staff Analysis is available from the Office of Public Information at the address listed below.

DATE: Written comments on the Tentative Staff Analysis and requests for a hearing are due on or before December 3, 1980.

ADDRESS: Fifteen copies of written comments, and any request for a public hearing shall be submitted to: Department of Energy, Case Control Unit, Box 4629, Room 2313, 2000 M Street NW., Washington, D.C. 20461. Docket Number ERA-FC-80-021 should be printed clearly on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

William L. Webb, Office of Public Information, Economic Regulatory Administration, Department of Energy, 2000 M Street NW., Room B-110, Washington, D.C. 20461, Phone (202) 653-4055.

Louis T. Krezanosky, New Powerplants Branch, Department of Energy, Room 3012B, 2000 M Street, NW., Washington, D.C. 20461, Phone (202) 653-4208.

Marx M. Elmer, Office of General Counsel, Department of Energy, 1000 Independence Avenue, SW., Room 6B-178, Washington, D.C. 20585, Phone (202) 252-2967.

SUPPLEMENTARY INFORMATION: Modesto Irrigation District (Modesto) plans to install a 49,900 KW oil/natural gas-fired combustion turbine unit to be called McClure Station Unit 2 (McClure 2) at its McClure Generating Station site in Stanislaus County, California. Based upon estimates by Modesto, the proposed unit is expected to consume approximately 98,000 barrels of No. 2 fuel oil per year (268 bbl/day). McClure 2 is scheduled for commercial operation on May 15, 1981.

The Economic Regulatory Administration (ERA) published interim rules on May 15, and 17, 1979 (44 FR 28530, 28940) to implement provisions of Title II of the Act. The final rule, published on June 6, 1980 (45 FR 38276) became effective August 5, 1980.

FUA prohibits the use of natural gas or petroleum in certain new major fuel burning installations and powerplants unless an exemption for such use has been granted.

Modesto submitted a sworn statement with the petition signed by Mr. M. N. Bennett, Chief Administrative Officer, of Modesto as required by 10 CFR Part 503.41(b)(1). In his statement, Mr. Bennett certifies that McClure 2 will be operated solely as a peakload powerplant only to meet peakload demand for the life of the plant. He also certified that the maximum design capacity of the unit is 49,900 KW and that the maximum generation that the unit will be allowed during any 12-month period is the design capacity times 1,500 hours or 74,850,000 Kwh.

Under the requirements of 10 CFR Part 503.41(b)(1)(ii), if a petitioner proposes to use natural gas or to construct a powerplant to use natural gas in lieu of an alternate fuel as a primary energy source, he must obtain a certification from the Administrator of the Environmental Protection Agency or the director of the appropriate state air pollution control agency. This certification must state that the use by the powerplant of any available alternate fuel as a primary energy source will cause or contribute to a concentration, in an air quality control region or any area within the region, of a pollutant for which any national air quality standard is or would be exceeded. However, since ERA has determined that there are no presently available alternate fuels which may be used in the proposed powerplant, no such certification can be made. The

certification requirement is therefore waived with respect to this petition.

Tentative Staff Analysis

On the basis of Modesto's sworn statements and information provided, the staff recommends that ERA grant the requested peakload powerplant exemption.

Submitted with Modesto's petition is a letter from the Environmental Protection Agency Region IX (EPA), dated November 1, 1979. EPA has issued an approval to construct and operate McClure 2 subject to certain conditions.

Based upon the information provided by Modesto, ERA conducted an analysis which was reviewed by the DOE's Office of Environment, in consultation with the Office of General Counsel, and DOE has concluded that the granting of this exemption is not a major Federal action significantly affecting the quality of the human environment, within the meaning of the National Environmental Policy Act of 1969. Accordingly, neither an environmental impact statement nor an environmental assessment is required.

Terms and Conditions

Section 214(a) of the Act gives ERA the authority to include terms and conditions in any order granting an exemption. Based upon the information submitted by Modesto and upon the results of the staff analysis, the staff of ERA has tentatively determined and recommends that any order which would grant the requested permanent peakload powerplant exemption should, pursuant to Section 214 of the Act, be on the following terms and conditions:

A. Modesto shall not produce more than 74,850,000 Kwh during any 12-month period with McClure Unit 2. Modesto shall provide annual estimates of the expected periods (hours during specific months) of operation of McClure 2 for peakload purposes (e.g. 8:00-10:00 am and 3:00-6:00 pm during the June-September period, etc.). Estimates of the hours in which Modesto expects to operate McClure 2 during the first 12-month period shall be furnished within 30 days from the date of this order.

B. Modesto shall comply with the reporting requirements set forth in 10 CFR Part 503.41(e). In addition, whenever Modesto operates McClure 2 in non-specified peakload periods (periods not specified in condition A above) Modesto shall report annually the reason(s) for such operation.

C. The quality of any petroleum to be burned in the unit will be the lowest grade available which is technically feasible and capable of being burned

consistent with applicable environmental requirements.

D. Modesto shall comply with any terms and conditions which may be imposed pursuant to the environmental requirements set forth at 10 CFR Part 503.15(b).

Issued in Washington, D.C. on November 12, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-36099 Filed 11-18-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-FC-80-035; ERA Case No. 52721-6135- 1 Through 20-22]

Powerplant and Industrial Fuel Use Act of 1978

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Acceptance of Exemption Petition

SUMMARY: On August 29, 1980, Southern California Edison Company (Edison) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy seeking twenty permanent peakload powerplant exemptions from the provisions of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act) (42 U.S.C. 8301 *et seq.*). The Act prohibits the use of petroleum or natural gas in new powerplants. Criteria for petitioning for a permanent peakload powerplant exemption are published at 10 CFR 501.3 and 503.41.

Edison proposes to install twenty 64,500 kilowatt distillate oil-fired simple cycle combustion turbine units at its Lucerne Valley Project (Units CT-1 through CT-20), and certifies that for each unit it will be operated solely as a peakload powerplant and will be operated to meet peakload demand for the life of each unit.

ERA has accepted Edison's petition pursuant to 10 CFR 501.3 and 501.63. In accordance with the provisions of Sections 701(c) and (d) of FUA, and 10 CFR 501.31 and 501.33, interested persons are invited to submit written comments in regard to this matter, and any interested person may submit a written request that ERA convene a public hearing.

DATE: Written comments are due on or before January 5, 1981. A request for a public hearing may be made by any interested person within this same 45 day period.

ADDRESS: Fifteen copies of written comments, or a request for a public

hearing shall be submitted to: Department of Energy, Economic Regulatory Administration, Case Control Unit (FUA), Box 4629, Room 3214, 2000 M Street, NW., Washington, D.C. 20461

Docket No. ERA-FC-80-035 should be printed clearly on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

William L. Webb, Office of Public Information, Economic Regulatory Administration, Department of Energy, 2000 M Street NW., Room B-110, Washington, D.C. 20461, Phone (202) 653-4055

Louis T. Krezanosky, New Powerplants Branch, Economic Regulatory Administration, Department of Energy, 2000 M Street NW., Room 3012B, Washington, D.C. 20461, Phone (202) 653-4208

Marx Elmer, Office of General Counsel, Department of Energy, 6B-178 Forrestal Bldg., Washington D.C. 20461, Phone (202) 252-2967

SUPPLEMENTARY INFORMATION: FUA

prohibits the use of natural gas or petroleum in certain new powerplants unless an exemption for such use has been granted by ERA. Edison has filed a petition for twenty permanent peakload powerplant exemptions to use distillate oil as a primary energy source in Units CT-1 through CT-20 at its Lucerne Valley Project.

As part of its petition, Edison submitted a sworn statement by a duly authorized officer, Mr. A. Arenal, Vice President, Southern California Edison Company, as required by 10 CFR 503.41 (b)(1). In his statement, Mr. Arenal certified that each of the proposed distillate fuel oil-fired combustion turbines will be operated solely as a peakload powerplant and will be operated only to meet peakload demand for the life of the unit.

Mr. Arenal also certified that the maximum design capacity of each of the powerplants is 64,500 kilowatts and that the maximum generation that will be allowed during any 12-month period is the design capacity times 1,500 hours or 96,750,000 kwh per unit.

ERA retains the right to request additional relevant information from Edison at any time during the pendency of these proceedings where circumstances or procedural requirements may require. The public file, containing documents on these proceedings and supporting materials, is available for inspection upon request at: ERA, Room B-110, 2000 M Street NW., Washington, D.C. 20461, Monday-Friday, 8:00 a.m.-4:30 p.m.

Issued in Washington, D.C., on November 12, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-36102 Filed 11-18-80; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[RD-FRL 1674-7]

Ambient Air Monitoring Reference and Equivalent Methods; Receipt of Application for a Reference Method Determination

Notice is hereby given that on October 20, 1980, the Environmental Protection Agency received an application from Dasibi Environmental Corporation, Glendale, California, to determine if its Model 3003 Gas Filter Correlation CO Analyzer should be designated by the Administrator of the EPA as a reference method under 40 CFR Part 53 (40 FR 7044, 41 FR 11255). If, after appropriate technical study, the Administrator determines that this method should be so designated, notice thereof will be given in a subsequent issue of the **Federal Register**.

Stephen Gage,

Assistant Administrator for Research and Development.

[FR Doc. 80-36051 Filed 11-18-80; 8:45 am]

BILLING CODE 6560-35-M

FEDERAL HOME LOAN BANK BOARD

[AC-103]

Carolina Federal Savings and Loan Association of Raleigh, Raleigh, N.C.; Approval of Post-Approval Amendment of Conversion Application (Notice of Final Action)

October 31, 1980.

Notice is hereby given that on October 15, 1980 the Federal Home Loan Bank Board ("Board"), as the operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC"), through the exercise of delegated authority, approved an amendment to the application of Carolina Federal Savings and Loan Association of Raleigh, Raleigh, North Carolina ("Association"), providing that the aggregate price of the stock to be sold in the conversion of the Association shall be sold for not less than \$1,296,000 nor more than \$1,710,000. The conversion application of the Association was approved on June 6, 1980, by Board Resolution No. 80-357. Copies of the

application and amendments thereto are available for inspection at the Office of the Secretary of FSLIC, 1700 G Street NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of FSLIC at the Federal Home Loan Bank of Atlanta, Coastal States Building, 260 Peachtree Street NW., Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.

Robert D. Linder,

Acting Secretary.

[FR Doc. 80-36097 Filed 11-18-80; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street NW., Room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before December 9, 1980. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No.: T-3932.

Filing Party: Antonio Zapater Cajigas, 50 Isabel Street, P.O. box 1350, Ponce, Puerto Rico 00731.

Summary: Agreement No. T-3932 between the Administrative Board of the Municipal Piers of Ponce (Administrative Board) and Luis A. Ayala Colon, Sucrs. Inc. and Empire

Company, Inc. (The Lessees), provides for the lease of facilities at the Port of Ponce. Luis A. Ayala Colon, Sucrs. Inc., shall lease office space, special load cage in warehouse No. 4, and a payments office in warehouse No. 5. Empire Company, Inc. shall lease a cage under warehouse No. 4, and two buildings for storage of heavy equipment. The term of the lease shall be for 2 years. Total rental for the leased premises shall be \$525 per month. The leased facilities will be utilized by the Lessees for the business of contracting, handling, receipt and shipping of cargo through the Port of Ponce.

Agreement No.: T-3933.

Filing Party: William E. Emick, Jr., Deputy, Harbor Branch Office, City of Long Beach, Harbor Administration Building, P.O. Box 570, Long Beach, California 90801.

Summary: Agreement No., T-3933, between the City of Long Beach (City) and Toyota Motor Sales, U.S.A., Inc. (Toyota) provides for the 3-year lease by City to Toyota of certain premises to be used, as a contract marine terminal. Toyota will observe the rates, rules and regulations of the Port's tariff in its operation on the premises and shall retain all revenues assessed through said tariff. As compensation for the use of the premises, Toyota will pay City rental commencing at \$176,475 per quarter and escalating to \$211,600 per quarter at the commencement of the agreement's ninth quarter. Rental is in lieu of all tariff charges otherwise assessable by the City except for dockage charges. Agreement No. T-3933 will terminate FMC Agreements Nos. T-2338, T-2338-1 and T-2892.

Dated: November 14, 1980.

By Order of the Federal Maritime Commission

Francis C. Hurney,
Secretary.

[FR Doc. 80-36109 Filed 11-18-80; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 80-52; Agreements Nos. 10186, as Amended, 10332, as Amended, and 10371, as Amended, Agreement No. 10377, Agreements Nos. 10364 and 10329]

Availability of Energy Impact Statement

The Commission instituted this proceeding pursuant to sections 15 and 22 of the Shipping Act, 1916, to determine whether (1) Agreements Nos. 10186, 10186-4, 10332, 10332-1, 10371, 10371-1 and 10377 should be approved, disapproved or modified, and (2) whether Agreements Nos. 10364 and 10329 should be disapproved or modified. (Since the proceeding began Agreements Nos. 10377 and 10329 have been withdrawn.)

Pursuant to the Energy Policy and Conservation Act of 1975, 42 U.S.C. 6362, and the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, the Office of Environmental Analysis (OEA) has assessed the possible Commission

actions with regard to these agreements and determined that (1) Commission approval of Agreements Nos. 10186, 10332, 10371 and their amendments should promote greater energy efficiency, greater energy conservation and fewer environmental impacts than Commission disapproval or modification, and (2) no measurable impacts should result from any Commission actions taken with regard to Agreement No. 10364.

This Energy Impact Statement is available for inspection on request from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. 20573, telephone (202) 523-5725.

Interested parties may comment on the Statement on or before December 9, 1980. Such comments are to be filed with the Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, D.C. 20573. If a party fails to comment within this period, it will be assumed that the party has no comment to make.

Francis C. Hurney,
Secretary.

[FR Doc. 80-36108 Filed 11-18-80; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 CFR § 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the

evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than December 12, 1980.

A. *Federal Reserve Bank of New York* (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. CITICORP, New York, New York (underwriting/reinsurance activities; Arkansas, Connecticut, Delaware, District of Columbia, Illinois, Iowa, Kansas, Kentucky, Massachusetts, Michigan, Minnesota, New Jersey, North Dakota, Ohio, Pennsylvania, South Carolina, Tennessee, West Virginia, Wisconsin); to engage through its indirect subsidiary, Family Guardian Life Insurance Company, Phoenix, Arizona, in the activity of underwriting/reinsuring credit life and credit accident and health insurance which is related to extensions of credit by Citicorp's lending subsidiaries. These activities would be conducted in the 18 states and the District of Columbia listed in the caption of this notice.

2. Manufacturers Hanover Corporation, New York, New York (mortgage banking, loan servicing, and insurance activities; Arizona): to engage through its subsidiary, Manufacturers Hanover Mortgage Corporation, in making or acquiring, for its own account or for the account of others, loans and other extensions of credit such as would be made by a mortgage company; servicing any such loans and other extensions of credit for any person; and acting as agent or broker through its subsidiary, CMC Insurance Agency, Inc., for the sale of credit life insurance and credit accident and health insurance relating to such loans and other extensions of credit. These activities would be conducted from an office of Manufacturers Hanover Mortgage Corporation in Mesa, Arizona, serving the cities of Mesa and Tempe, Arizona, and surrounding communities, located in Maricopa County.

B. *Federal Reserve Bank of Richmond* (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23251:

Maryland National Corporation, Baltimore, Maryland (finance activities; southwestern United States): to engage, through its subsidiary, Maryland

National Industrial Finance Corporation, in commercial lending activities, including financing of accounts receivable, inventories, and other types of loans to commercial enterprises; servicing commercial loans; and acting as advisor or broker in commercial lending transactions. These activities would be conducted from an office in Dallas, Texas, serving Louisiana, Texas, Oklahoma, New Mexico, and Arizona.

C. *Federal Reserve Bank of San Francisco* (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

Zions Utah Bancorporation, Salt Lake City, Utah, (banking, mortgage banking, industrial banking, leasing activities; Utah, Idaho, Colorado and Oregon): to engage through its proposed wholly-owned subsidiary Pueblo 1st Industrial Bank in operating an industrial bank as authorized by Colorado law, including the granting of credit to consumers and others; the sale on an optional basis of credit life, health and accident, property damage and liability insurance directly related to such loans; and the acceptance of time savings deposits in the form of passbook accounts and certificate accounts. These activities will be conducted at an office to be located in Pueblo, Colorado serving the states identified in the caption.

D. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, November 12, 1980.

Jefferson A. Walker,
Assistant Secretary of the Board.

[FR Doc. 80-36034 Filed 11-18-80; 8:45 am]
BILLING CODE 6210-01-M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was accepted by the Regulatory Reports Review Staff, GAO, on November 13, 1980. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the *Federal Register* is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed ICC request are invited from all interested persons, organizations, public interest groups, and affected businesses.

Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before December 8, 1980, and should be addressed to Mr. John M. Lovelady, Senior Group Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW, Washington DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

Interstate Commerce Commission

The ICC requests clearance of a new, voluntary Small Community Service Study Questionnaire, which ICC will use to gather information about the adequacy of truck service to small communities and how the Motor Carrier Act of 1980 has impacted that service. The questionnaire will be sent to shippers and receivers (businesses) in small communities throughout the contiguous states. The ICC will survey each shipper and receiver twice at 6-month intervals using the identical questionnaire both times. An identical questionnaire will also be sent to shippers in communities of all sizes throughout the State of Florida, in order to study the effects of that state's move to deregulate the intrastate trucking industry. The ICC estimates that respondents will number between 1200 and 1500 and that time to complete each questionnaire will average 20 minutes.

John M. Lovelady,

Senior Group Director, Regulatory Reports Review.

[FR Doc. 80-36014 Filed 11-18-80; 8:45 am]

BILLING CODE 1610-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Love Canal Epidemiology Work Group; Open Meeting

On November 24, 1980, an open meeting will be held of the Love Canal Epidemiology Work Group to discuss revised epidemiologic study protocols on health effects of chemical contamination of the Love Canal area. Clinicians, health and environmental scientists, and public health officials who are actively involved in the study, prevention, and control of human health consequences of toxic environmental contamination have been invited to participate in the work group. The meeting is open to the public, limited only by space available.

The meeting is scheduled to convene at 10:00 a.m., Room 131, Carey Hall,

University of New York At Buffalo, 3435 Main Street, Buffalo, New York.

All inquiries should be sent to: Renate Kimbrough, M.D., Research Medical Officer, Toxicology Branch, Bureau of Laboratories, Centers for Disease Control, Atlanta, Georgia 30333; Telephones: FTS: 236-4176, Commercial: 404/452-4176.

Dated: November 14, 1980.

William H. Foege, M.D.,

Director, Centers for Disease Control.

[FR Doc. 80-36237 Filed 11-18-80; 8:45 am]

BILLING CODE 4110-86-M

Office of Human Development Services

White House Conference on Aging; Technical Committee on Employment; Meeting

The White House Conference on Aging Technical Committee was established to provide scientific and technical advice and recommendations to the National Advisory Committee of the 1981 White House Conference on Aging and to the Executive Director of the 1981 White House Conference on Aging in developing issues to be considered and to produce technical documents to be used by the Conference.

Notice is hereby given pursuant to the Federal Advisory Committee Act, (Public Law 92-463, 5 U.S.C. App. 1, sec. 10, 1976) that the Technical Committee on Employment will hold its next meeting on Wednesday, December 3, 1980 from 1:00 p.m. until 5:00 p.m. and Thursday, December 4, 1980 from 9:00 a.m. until 4:00 p.m. in the Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C. 20201, in Room 337A-339A.

The purpose of the meeting will be to review progress report and agree upon findings and recommendations.

Further information on the Technical Committee meeting may be obtained from Mr. Jerome R. Waldie, Executive Director, White House Conference on Aging, Room 4059, 330 Independence Avenue SW., Washington, D.C. 20201, telephone (202) 245-1914. Technical Committee meetings are open for public observation.

Dated: November 13, 1980.

Mamie Welborne,

HDS Committee Management Officer.

[FR Doc. 80-36036 Filed 11-18-80; 8:45 am]

BILLING CODE 4110-92-M

White House Conference on Aging; Technical Committee Meeting

The White House Conference on Aging Technical Committee was established to provide scientific and technical advice and recommendations to the National Advisory Committee of the 1981 White House Conference on Aging and to the Executive Director of the 1981 White House Conference on Aging in developing issues to be considered and to produce technical documents to be used by the Conference.

Notice is hereby given pursuant to the Federal Advisory Committee Act, (Public Law 92-463, 5 U.S.C. App. 1, sec. 10, 1976) that the Technical Committee on Family, Social Services and other Support Systems of the 1981 White House Conference on Aging will hold its next meeting on Friday, December 5, 1980 and on Saturday, December 6, 1980 from 9:30 a.m. until 5:00 p.m. The meeting will take place in the Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C., 20201 in Room 403-425A.

The purpose of the meeting will be to review a draft of the policy paper and to review initial recommendations.

Further information on the Technical Committee meeting may be obtained from Mr. Jerome R. Waldie, Executive Director, White House Conference on Aging, Room 4059, 330 Independence Avenue SW., Washington, D.C. 20201, telephone (202) 245-1914. Technical Committee meetings are open for public observation.

Dated: November 13, 1980.

Mamie Welborne,

HDS Committee Management Officer.

[FR Doc. 80-36035 Filed 11-18-80; 8:45 am]

BILLING CODE 4110-92-M

Title VII of the Public Health Service Act, Health Research and Teaching Facilities and Training of Professional Health Personnel; Delegation of Authority

Notice is hereby given that on October 8, 1980, the Secretary of Health and Human Services delegated to the Assistant Secretary for Health all the authority vested in the Secretary under Title VII of the Public Health Service Act (42 U.S.C. 292 *et seq.*), as amended, pertaining to health research and teaching facilities and training of professional health personnel, excluding the authority under Subpart I, Part C of Title VII pertaining to the Federal program of insured loans to graduate students in health professions schools, the authority to promulgate regulations,

the authority to establish advisory committees and councils, the authority to select members to advisory councils, and the authority to submit reports to Congress or to a congressional committee. The Assistant Secretary for Health may redelegate his authority under Title VII of the Public Health Service Act subject to Section 707 of the Public Health Service Act.

Previous delegations made to the Assistant Secretary for Health of authorities under Title VII of the Public Health Service Act have been superseded. Provision has been made for previous delegations and redelegations of authority under Title VII of the Public Health Service Act made to other officials in the Public Health Service to continue in effect, pending further redelegation provided they are consistent with the above cited delegation to the Assistant Secretary for Health.

Dated: October 28, 1980.

Frederick M. Bohen,

Assistant Secretary for Management and Budget, Office of the Secretary.

[FR Doc. 80-36040 Filed 11-18-80; 8:45 am]

BILLING CODE 4110-83-M

Title VIII of the Public Health Service Act, Nurse Training; Delegation of Authority

Notice is hereby given that on October 8, 1980, the Secretary of Health and Human Services delegated to the Assistant Secretary for Health all the authority vested in the Secretary under Title VIII of the Public Health Service Act (42 U.S.C. 296 *et seq.*), as amended, pertaining to nurse training, excluding the authority under Section 851 to establish and to select members to the National Advisory Council on Nurse Training, the authority to promulgate regulations, the authority to establish advisory committees and councils, and the authority to select members to advisory councils. The Assistant Secretary for Health may redelegate his authority under Title VIII of the Public Health Service Act, subject to Section 856 of the Public Health Service Act. Exercise of these authorities are subject to Health and Human Services policy and requirements for administering Section 855 of the Public Health Service Act relating to the prohibition against discrimination by schools on the basis of sex.

Previous delegations made to the Assistant Secretary for Health of authorities under Title VIII of the Public Health Service Act have been superseded. Provision has been made for previous delegations and

redelegations of authority under Title VIII of the Public Health Service Act made to other officials in the Public Health Service to continue in effect, pending further redelegation provided they are consistent with the above cited delegation to the Assistant Secretary for Health.

Dated: October 28, 1980.

Frederick M. Bohen,

Assistant Secretary for Management and Budget/OS.

[FR Doc. 80-36039 Filed 11-18-80; 8:45 am]

BILLING CODE 4110-83-M

Study of Federal Financial Support for Nursing Education Programs; Delegation of Authority

Notice is hereby given that on October 8, 1980, the Secretary of Health and Human Services delegated to the Assistant Secretary for Health, with authority to redelegate, all the authority vested in the Secretary under Title I, Section 113 of Public Law 96-76 (42 U.S.C. 296 note) providing for a study of Federal financial support for nursing education programs, excluding the authority to submit reports to Congress or to a congressional committee.

Dated: October 29, 1980.

Frederick M. Bohen,

Assistant Secretary for Management and Budget/OS.

[FR Doc. 80-36041 Filed 11-18-80; 8:45 am]

BILLING CODE 4110-83-M

Technical Assistance Demonstration Grants and Contracts Under Section 340A of the Public Health Service Act; Delegation of Authority

Notice is hereby given that on September 4, 1980 the Secretary of Health and Human Services delegated to the Assistant Secretary for Health, with authority to redelegate, all of the authorities vested in the Secretary under section 340A of the Public Health Service Act (42 U.S.C. 256a), as amended, concerning Technical Assistance Demonstration Grants and Contracts, excluding the authorities to (1) issue regulations, (2) establish the Primary Health Care Advisory Committee, and (3) appoint members to the Primary Health Care Advisory Committee.

Dated: November 6, 1980.

Alair Townsend,

Assistant Secretary for Management and Budget.

[FR Doc. 80-36037 Filed 11-18-80; 8:45 am]

BILLING CODE 4110-84-M

Alcohol, Drug Abuse, and Mental Health Administration; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HM (Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA)) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (38 FR 1654, January 11, 1974, as amended most recently at 45 FR 27528, April 23, 1980) is amended to reflect the establishment of the Office of Special Populations within the Office of the Administrator, ADAMHA, and the corresponding modification of the functional statements for the Office of the Administrator and the Division of Treatment within the Office of Program Planning and Coordination.

Section HM-B, Organization and Functions, is amended as follows:

1. Under *Office of the Administrator (HMA)*, delete item (4) of the functional statement and renumber item (5) to read item (4).

2. Under *Office of Program Planning and Coordination (HMA2)*, delete item (5) under its *Division of Treatment (HMA24)* and substitute the following:

(5) collaborates with Institutes, with Federal, State and local governments, and with professional organizations regarding treatment policy and programs for rural and urban health initiatives.

3. After the statement for the *Division of Treatment (HMA24)*, insert the following statement:

Office of Special Populations (HMA4)

(1) Identifies and highlights the needs, issues and concerns of unserved, underserved, and other special populations relative to alcohol, drug abuse, and mental health; (2) participates with the Office of Program Planning and Coordination (OPPC), other components of the Office of the Administrator and the Institutes in the development of program policy regarding special populations; (3) plans, develops and advocates specific agency strategies and program initiatives for these populations; (4) monitors the implementation of current and proposed agency strategies and/or programs and, in collaboration with OPPC and other offices, their effectiveness in meeting the alcohol, drug abuse, and mental health concerns of special populations; (5) in pursuit of the above functions, maintains liaison and communications with key constituency groups of the respective special populations; regional, State, and local governmental components; and professional, citizen and other various organizations with

common interests. Collaborates in similar liaison activities of the Institutes and other components of the Office of the Administrator; (6) coordinates the consumer affairs activities for ADAMHA.

Dated: November 4, 1980.

Patricia Roberts Harris,
Secretary.

[FR Doc. 80-36036 Filed 11-18-80; 8:45 am]

BILLING CODE 4110-88-M

Food and Drug Administration; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HF (Food and Drug Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (35 FR 3685, February 25, 1970, as amended in pertinent part at 43 FR 16422, April 18, 1978) is amended to reflect a minor functional realignment within the Executive Director of Regional Operations (EDRO).

As presented in this notice, the Division of Field Science and Technology will be retitled as the Division of Field Science. The functional statements for the Division of Field Science are amended to redefine the division's role in automated laboratory operations as they relate to the overall EDRO ADP activity.

The affected portions of the functional statements for EDRO are revised to reflect changes cited above.

Section HF-B, Organization, is amended by deleting paragraph (x-3) *Division of Field Science and Technology (HFRH)* and replacing it with paragraph (x-3) *Division of Field Science (HFRH)* reading as follows:

(x-3) *Division of Field Science (HFRH)*. Advises the Executive Director concerning the management of FDA's overall field scientific resources (including national experts) to assure their coordinated, efficient, and effective use; provides coordination between field and bureau scientific programs.

Represents the Executive Director in top level scientific policy and program matters.

Identifies goals and objectives for field scientific activities; develops policies and procedures as they relate to these activities; coordinates and develops manuals on field laboratory operating and technical procedures.

Develops control procedures for field laboratory operations and evaluates the adequacy and effectiveness of field scientific activities through onsite visits.

Manages the field laboratory research programs; identifies the need for,

develops, tests, evaluates, and/or arranges for the adoption of new field equipment, techniques, and methodology.

Participates in the determination of long and short-range field scientific facility needs.

Coordinates research on the applicability of new, complex, scientific instruments for field analyses; designs instrument systems.

Participates in the formulation and evaluation of training and career development plans for field scientists.

Provides scientific and analytical expertise to EDRO related to laboratory automation, analysis, and process control and acquisition of automated data laboratory instruments.

Develops and maintains liaison with outstanding scientists to assure the most effective use of FDA field scientific resources.

Develops and/or reviews the scientific and technical aspects of environmental impact statements.

Coordinates the development and audits the implementation of safety programs in field laboratories.

Dated: November 4, 1980.

Patricia Roberts Harris,
Secretary.

[FR Doc. 80-36042 Filed 11-18-80; 8:45 am]

BILLING CODE 4110-03-M

Food and Drug Administration; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HF (Food and Drug Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (35 FR 3685, February 25, 1970, as amended most recently in pertinent part at 42 FR 55653, October 18, 1977) is amended to reflect a reorganization of the substructure within the Bureau of Biologics (BOB). This reorganization is part of the Bureau's efforts to keep pace with the constantly changing product lines of the biological industry. Recently, the media have widely publicized significant scientific discoveries in recombinant DNA research which are expected to result in new biological products. Realignment of certain functions will enhance the BOB efforts to maximize the efficiency and effectiveness of program scientists and high technology instrumentation. As presented in this notice, a new Division of Biochemistry and Biophysics will be established. Transferred to this division will be the electron microscopy functions from the Division of Pathology, the biochemistry functions from the

Division of Bacterial Products, and the analytical chemistry functions from the Division of Control Activities. The Division of Control Activities will be retitled as the Division of Product Quality Control. The division will retain the biological testing functions and protocol review functions with the pathobiology and primatology functions being transferred into this division from the Division of Pathology. The Division of Pathology is abolished; and the remaining functions of this division, the cellular physiology and experimental biology functions, are transferred to the Division of Bacterial Products. The affected portions of the functional statements for BOB are revised to reflect the changes cited above. Section HF-B, Organization is amended as follows:

1. Revise paragraph (r-5) *Division of Control Activities (HFBA)* by changing the title to *Division of Product Quality Control (HFBA)* and amending the functional statements to read as follows:

(r-5) *Division of Product Quality Control (HFBA)*. Plans and conducts a developmental testing program of biological products such as vaccines, cell-derived antiviral and antitumor substances, and various blood components to develop standards designed to insure the safety, purity, potency, and efficacy of such products and to improve the existing test procedures.

Plans and conducts sterility, general safety, pyrogen, and potency tests on biological products submitted for release or in support of license applications; and when required, performs safety, neurovirulence, and potency tests on biological products using nonhuman primates and certain other animals. Reviews manufacturers protocols with respect to such tests.

Removes various tissues from primates and other animals as required for control testing and research as well as for the preparation of cell cultures.

Administers the biological products release program. Coordinates processing of protocols submitted for licensing and for the release of lots of biologics manufactured under existing licenses. Receives, maintains, and distributes accompanying samples of biological products for testing within the Bureau. Reviews recommendations by laboratory divisions concerning compliance with regulatory requirements and issues notification of release or rejection.

Establishes and distributes control preparations and reference reagents to licensed manufacturers, health agencies, and other control groups.

Recommends criteria for acceptability pertaining to the development of

regulatory standards and reference reagents for new biological products.

Provides technical training for representatives of domestic and foreign biological establishments in relation to control testing procedures.

Inspects manufacturers of biological products and laboratories conducting nonclinical studies involving investigational new drugs.

Reviews scientific data included in license applications for new biological products and amendments for old products.

Serves as custodian for official complaint samples and coordinates testing and compilation of results.

Coordinates testing and reporting of tests performed as a WHO Reference Center.

Assists in collaborative research and management of contract-supported activities.

2. Delete paragraph (r-6) Division of Pathology (HFBD) in its entirety and insert the following new Division of Biochemistry and Biophysics (HFBJ):

(r-6) *Division of Biochemistry and Biophysics (HFBJ)*. Plans and conducts research on (1) the chemistry and biology of vaccines and other biological products, impurities, and/or unsuspected components of new products; (2) the pathogenesis of infectious diseases caused by bacteria, rickettsia, viruses, and parasites; and (3) immunologic processes which may lead to morphologic alteration.

Develops biochemical and biophysical methodology and bioassays for application to the control of existing and newly developed biological products derived from DNA recombinant technology.

Reviews scientific data supporting license applications and amendments for biological products and provides staff having appropriate expertise for the product under consideration to serve on licensing committees.

Carries out control tests and reviews manufacturer's protocols to insure that specific requirements for release are satisfied.

Participates in the inspection of manufacturers of biological products.

Assists in collaborative research and management of contract supported activities.

3. Revise paragraph (r-7) *Division of Bacterial Products (HFBE)* to read as follows:

(r-7) *Division of Bacterial Products (HFBE)*. Plans and conducts research on fundamental aspects of bacteriology and immunology relating to bacterial and allergic diseases of man to obtain data bearing on the continued or increased safety, purity, potency, and efficacy of

bacteriological, allergenic, and analogous biological products, including the development of new biological products and new or improved methods of control of old and new products.

Plans and conducts research on the interactions between cells in culture and single microorganisms or chemical agents. Develops techniques for studying *in vitro* functions of immunized cells.

Carries out control tests and reviews manufacturers protocols on selected products to insure that specific requirements for release are satisfied.

Participates in the inspection of manufacturers of biological products.

Provides staff having appropriate expertise for the product under consideration to serve on licensing committees.

Develops, reviews, and revises technical standards pertaining to the control of bacterial, allergenic, and analogous products.

Assists in collaborative research and management of contract-supported activities.

Dated: November 4, 1980.

Patricia Roberts Harris,
Secretary.

[FR Doc. 80-36043 Filed 11-18-80; 8:45 am]

BILLING CODE 4110-03-M

Office of the Secretary

[OS 4110-12]

Secretary's Advisory Committee on the Rights and Responsibilities of Women; Meeting

The Secretary's Advisory Committee on the Rights and Responsibilities of Women, which is established to provide advice to the Secretary of Health and Human Services on the impact of the policies, programs and activities of the Department on the status of women will meet on Thursday, December 11, 1980, from 10:00 a.m. to 5:00 p.m., and on Friday, December 12, 1980, from 9:30 a.m. to 3:30 p.m. in Room 425-A, Hubert Humphrey Building, 200 Independence Ave. SW., Washington, D.C. The agenda will include general overview of women's health and social security issues.

Further information on the Committee may be obtained from: Cheryl Yamamoto, Executive Secretary, telephone: 202-245-8454. This meeting is open to the public.

Dated: November 10, 1980.

Cheryl Yamamoto,
Executive Secretary, Secretary's Advisory Committee on the Rights and Responsibilities of Women.

[FR Doc. 80-36096 Filed 11-18-80; 8:45 am]

BILLING CODE 4110-12-M

National Environmental Policy Act and Other Related Acts; Procedures for Conducting Environmental Reviews

AGENCY: Office of the Secretary.

ACTION: Notice of Final HHS Implementing Procedures.

SUMMARY: On March 6, 1980, proposed HHS supplemental procedures for conducting environmental reviews were published in the *Federal Register* as required by regulations of the Council on Environmental Quality (CEQ) for implementing the National Environmental Policy Act, 43 FR 55978 (November 29, 1978) and other related acts. Final procedures were subsequently developed and transmitted to CEQ for review. The Council approved the procedures on October 2, 1980 and they are published below in Part 30 of the General Administration Manual.

EFFECTIVE DATE: November 13, 1980.

FOR FURTHER INFORMATION CONTACT: Charles Custard, Director, Office of Environmental Affairs, Department of Health and Human Services, 200 Independence Avenue, S.W., Washington, D.C. 20201, or telephone (202) 472-9740.

SUPPLEMENTARY INFORMATION: In accordance with the provisions of the National Environmental Policy Act of 1969 (NEPA), as amended, and other related environmental laws, executive orders, and regulations, the Department of Health and Human Services has issued final procedures for conducting environmental reviews, preparing necessary documentation, and making program decisions to protect the quality of the environment. In addition to supplementing the CEQ regulations, the procedures employ a single comprehensive review process for meeting the provisions of both NEPA and related laws and regulations. These procedures will reduce the burden on members of the public having business with HHS by providing for the consolidation of requests for information needed for an environmental review. The conduct of environmental reviews by HHS personnel will be also facilitated. The procedures should assist the public and others in better understanding HHS policies since all applicable Federal

environmental review requirements are contained in a single document.

There were only a few public comments received in response to the **Federal Register** notice containing the proposed procedures. The commentors suggested that the text of the procedures include additional reference citations to regulations of the Advisory Council on Historic Preservation and CEQ. The CEQ comments suggested that the procedures provide for certain specific requirements contained in their regulations. These included the need for a cover sheet in an EIS, circulation of EISs to State and local agencies responsible for environmental standards, consultation with CEQ in emergency situations, consideration of alternative uses of scarce resources and CEQ approval of NEPA categorical exemptions. The CEQ also provided suggestions for clarifying the relationships between Chapter 30-60, NEPA Review, and the other GAM chapters including definitions and categorical exclusions. All of the above recommendations are incorporated in the final version. Other changes made as a result of internal HHS reviews included: edition for clarity, adding examples to illustrate a procedure or term, and including various cross-references to different parts of the text to facilitate use of the procedures.

Dated: November 13, 1980.

Alair Townsend,

Assistant Secretary for Management and Budget.

General Administration Manual

Part 30 Environmental Protection

Contents

Chapter and Title

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Subject: Environmental Protection

30-00-00	Purpose
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30-00-00	Purpose

Part 30 of the *General Administration Manual* establishes Departmental policy and procedures with respect to protection of the environment, and the preservation of historic properties and

other valuable national resources. Under Federal laws, regulations and Executive Orders, all Federal Departments and agencies must take into account the environmental consequences of their activities. Included are the activities of non-Federal organizations which operate under the authority or with the support of Federal Departments or agencies. The terminology in this Part differs in some respects from that associated with any particular environmental law due to the fact that this Part is intended to implement a number of laws with varying requirements.

30-00-10 Chapter Organization and Content

The chapters of Part 30 are organized as follows:

- Chapter 30-00 provides a summary of major procedural requirements, a list of Public Laws, Executive Orders, Federal regulations and other authorities covered by Part 30, and a list of definitions.
- Chapters 30-10 and 30-20 provide overall Departmental policy with respect to environmental protection and a summary of internal administrative procedures which Departmental components must implement.
- Chapter 30-30 provides a general summary of the environmental review process for Departmental activities under all the environmental acts covered by Part 30.
- Chapters 30-40, 30-50 and 30-60 provide detailed requirements for each of the different environmental acts covered by Part 30.
- Chapter 30-70 provides Departmental procedures for reviewing environmental documents prepared outside of the Department.

30-00-20 Summary Requirements for Departmental Components

The following is a summary of the principal requirements established by the Part.

- A. *Administrative Requirements.* 1. POCs must review all their activities and determine: a. Those activities which normally *do not* cause an environmental effect (as defined by the environmental acts), and therefore can be categorically excluded from subsequent environmental review or documentation requirements;
- b. Those activities which require and environmental review because they may cause a significant environmental effect under NEPA or may affect an asset; and
- c. Those activities which normally *do* cause a significant environmental effect under NEPA or affect a cultural or natural asset and therefore require

preparation of an environmental document.

2. An activity may be categorically excluded from review and documentation requirements under one or more environmental acts, even though they may not be so excluded from all such acts. (See 30-20-30, -40.)

3. POCs shall adopt operating procedures for conducting environmental reviews of those proposed actions which have not been categorically excluded.

B. *Review Procedures for Individual Proposed Actions.* 1. *Environmental Reviews.* Prior to taking an action not categorically excluded from review requirements, conduct an environmental review to determine the probable environmental effects of the proposed action.

2. *Consultation.* Carry out the requirements for public involvement and intergovernmental consultation as prescribed in the applicable environmental acts.

3. *Documentation.* Prepare any required documentation depending on the applicable environmental act and the kind and degree of environmental effects caused by a proposed action. Finalize any draft documents on the basis of public comments and intergovernmental consultation, as appropriate.

4. *Decision-making.* Take environmental effects and values, discussed in the final statement, into account in decision-making. Prepare a public "record of decision" or other final documentation if required by an environmental act.

30-00-30 Public Laws, Executive Orders and Regulations Implemented by Part 30

The following list contains the various Public Laws, Executive Orders, Federal regulations and other authorities covered by Part 30:

A. *The National Environmental Policy Act (NEPA).* (1) establishes a comprehensive policy for protection and enhancement of the environment by the Federal government, (2) creates the Council on Environmental Quality (CEQ), and (3) directs Federal agencies to carry out the policies and procedures of the act.

B. *Executive Order 11514*, March 5, 1970, directs the heads of Federal agencies to monitor, evaluate and control their agencies' activities so as to protect and enhance the quality of the environment.

C. *Executive Order 11991*, May 24, 1977, directs CEQ to issue regulations to Federal agencies for the implementation of the procedural provisions of NEPA.

D. *Executive Order 12114*, January 4, 1979, directs Federal agencies to further the purpose of NEPA with respect to the environment outside the United States, its territories and possessions.

E. *Regulations of the Council on Environmental Quality*, November 29, 1978, require Federal agencies to adopt procedures to supplement CEQ regulations for implementing the provisions of NEPA.

F. *The Coastal Zone Management Act*, 16 U.S.C. 1456 et seq., directs Federal agencies to conduct activities consistent with an approved State coastal zone management program.

G. *The Wild and Scenic Rivers Act*, 16 U.S.C. 1278, directs Federal agencies to consider and preserve the values of wild and scenic areas in the use and development of water and land resources.

H. *Executive Order 11990*, May 24, 1977, directs heads of Federal agencies to avoid (1) the long- and short-term adverse impacts associated with the destruction or modification of wetlands and (2) direct or indirect support of new construction in wetlands whenever there is a practical alternative.

I. *Executive Order 11988*, May 24, 1977, directs Federal agencies to take action to avoid the occupancy or modification of floodplains and to avoid direct or indirect support of development in floodplain areas whenever there is a practical alternative.

J. *U.S. Water Resources Council Floodplain Management Guidelines*, February 10, 1978, provides guidance to Federal agencies for implementing Executive Order 11988.

K. *Marine Protection, Research and Sanctuaries Act*, 33 U.S.C. 1432f, provides for establishment of marine sanctuaries and directs Federal agencies to insure that their actions are consistent with the intended use of such areas.

L. *The Safe Drinking Water Act*, 42 U.S.C. 300f, et seq., authorizes EPA to determine if an action which will have an environmental effect on a sole or principal drinking water source would also constitute a significant hazard to a human population and, if so, to prohibit such an action.

M. *The Clean Air Act*, 42 U.S.C. 1857h-7, requires EPA to review and comment on a Federal agency action which would create a significant environmental impact.

N. *Executive Order 11987*, May 24, 1977, directs Federal agencies to prevent the introduction of exotic species into the natural ecosystems of the United States.

O. *The Endangered Species Act*, 16 U.S.C. 1536, directs Federal agencies to conserve endangered and threatened species and their critical habitats.

P. *Fish and Wildlife Coordination Act*, 16 U.S.C. 661-666c, directs Federal agencies to prevent loss and damage to, and provide for, development and improvement of wildlife resources.

Q. *The National Historic Preservation Act of 1966*, 16 U.S.C. 470 as amended, directs heads of Federal agencies to preserve cultural heritage, particularly with respect to sites on/or eligible for listing on the *National Register of Historic Places*.

R. *Executive Order 11593*, May 5, 1971, implements portions of the National Historic Preservation Act of 1966 and require Federal agencies to nominate eligible properties which it owns, leases or otherwise controls.

S. *Regulations of the Advisory Council on Historic Preservation* (36 CFR Part 800) establish procedures for the protection of historic and cultural properties.

T. *Regulations of the Department of the Interior* (36 CFR Parts 60 and 63) concern nominations to and determinations of eligibility for the *National Register of Historic Places*.

U. *The Archaeological and Historic Preservation Act*, 16 U.S.C. 469a-1 et seq., directs Federal agencies to preserve significant scientific, prehistorical, historical and archaeological data.

All components of the Department are responsible for complying with the specific requirements of each of the above environmental acts. The procedures which follow supplement and provide guidance toward meeting the requirements.

30-00-40 Definitions

A. Action—a signed decision by a responsible Department official resulting in: 1. approval, award, modification, cancellation, termination, use or commitment of Federal funds or property by means of a grant, contract, purchase, loan, guarantee, deed, lease, license or by any other means;

2. approval, amendment or revocation of any policy, procedures or regulations including the establishment or elimination of a Department program; or 3. submission to Congress of proposed legislation which, if enacted, the Department would administer.

B. Asset—an entity, group of entities or specific environment as defined in the individual related acts and which the individual related acts seek to protect or preserve. Assets include cultural assets (e.g., historic properties) and natural

assets (e.g., wild and scenic rivers, and endangered species);

C. Environmental acts—all authorities listed in Section 30-00-30;

D. Environmental effect—a change which a proposed action will cause either within the human environment (in accordance with NEPA) or to a cultural or natural asset (as defined in one or more of the related acts);

E. Environmental review*—the process, including necessary documentation, which a Departmental Component uses to determine whether a proposed action will cause an environmental effect, and whether to prepare a limited statement, full statement or no statement;

F. Environmental statement—either a limited statement or a full statement at either the draft or final stage (see G and H below);

G. Full statement*—a document which discusses a proposed action in terms of its purpose and environmental consequences and includes a discussion of alternatives to a proposed action;

H. Limited statement—a brief concise analysis which provides written evidence sufficient to meet the documentation requirements of the environmental acts or which supports a determination not to prepare a full statement;

I. POC—Principal Operating Component, e.g., Office of Human Development Services, Public Health Service;

J. Program review—a review by POCs of all their actions to determine: 1. those categories of actions which normally *do not* cause environmental affects sufficient to require environmental documentation and therefore may be categorically excluded from further environmental review; and

2. those categories of actions which require an environmental review because they may cause a significant environmental effect under NEPA or may affect an asset.

3. those categories of actions which normally *do* cause significant environmental effects under NEPA or *do* affect a cultural or natural asset and therefore require the preparation of an environmental document.

POCs should complete an initial program review as soon as practicable following publication of this Part and should undertake subsequent program reviews when deemed appropriate.

K. Related acts—All Public Laws, Executive Orders, Federal regulations

*Some environmental acts use different terms which are referenced in the section addressing such acts.

and other authorities listed in Section 30-00-30, but not including NEPA.

Subject: Policy

30-10-00 Policy

Most of the contents of Part 30 address procedural or documentation requirements specified in the environmental acts. These procedures and documents are necessary in order for HHS components, before proceeding with an action, to take into account the environmental consequences of that action.

HHS components must also give weight to preservation of the environment and protection of historic or cultural assets in reaching substantive program decisions. All HHS components shall assess environmental costs and benefits as well as program goals and objectives in determining a particular course of action. In conducting this assessment, HHS components should afford reasonable time, effort and resources to a deliberation of environmental risks associated with a program-related course of action.

Subject: Administrative Requirements

- 30-20-00 Background
 - 10 Responsibilities
 - 20 Approval Authority and Redelegations
 - 30 Process for Establishing Categorical Exclusions
 - 40 Categories of Exclusion
 - 50 Environmental Review Procedures

30-20-00 Background

This chapter establishes an administrative framework in the Department for environmentally-related activities. Specifically, this chapter (1) describes the assignment of relative responsibilities in the Department regarding environmental activities, (2) establishes procedures for program reviews and (3) establishes other on-going administrative requirements.

30-20-10 Responsibilities

A. Office of the Secretary. The Secretary shall designate an official as the Departmental Environmental Officer, who will be responsible for:

1. Preparing of Departmental guidelines and other policy documents for issuance by the Secretary or other appropriate Departmental official pertaining to environmental protection and preservation of natural or cultural assets;

2. Approving of lead agency agreements having Department-wide applicability;

3. Providing training to HHS program officials with respect to carrying out the requirements of the environmental acts;

4. Maintaining liaison with CEQ, EPA and other Federal agencies charged with direct responsibility for administering the environmental acts;

5. Coordinating the review of environmental statements originating from outside of HHS; and

6. Reviewing and making recommendations to the Assistant Secretary for Management and Budget with respect to determinations by POCs that certain activities are categorically excluded from environmental review.

B. Principal Operating Components. Heads of POCs are responsible for ensuring that organizational units under their authority comply with all provisions of the environmental acts and with the procedures of this Part. A POC head may designate a POC environmental officer, who may act in either a full-time capacity or in addition to other duties, to assist in fulfilling these responsibilities.

C. Regional Offices. Principal Regional Officials (PROs) are responsible for complying with the provisions of the environmental acts and the policies in this part for those specific program responsibilities delegated to them.

In addition, the PROs shall:

1. Serve as principal HHS regional liaison official with other Federal, State, and local agencies on matters pertaining to environmental preservation or protecting environmental, cultural or natural assets;

2. Coordinate the timely review by regional program personnel of environmental impact statements forwarded to HHS by other agencies; and

3. Periodically verify with the POCs that their regional program staff are aware of and are complying with the requirements of this Part.

30-20-20 Approval Authority and Redelegations

A. The POC head and PRO may redelegate all their environmental responsibilities to subordinate program managers except for approving the designation of actions as categorically excluded by the POC head. POC heads shall obtain concurrence from the Assistant Secretary for Management and Budget with respect to activities designated to be categorically excluded from environmental reviews.

B. The exclusion of material from environmental statements on the basis of national security and trade secrets requires approval by the HHS General Counsel. (See Section 30-30-40.)

C. Proposed actions which will have an effect on certain natural assets require concurrence or approval from other Federal agencies (see 30-50) prior to taking the action.

D. POC heads shall sign determinations pursuant to Executive Order 11988 on Floodplain Management and Executive Order 11990 on Wetlands except: 1. The Secretary shall approve proposed actions requiring full statements on projects affecting floodplains; and

2. The Secretary shall approve proposed actions requiring limited or full statements for new construction in wetlands.

30-20-30 Process for Establishing Categorical Exclusions

A. All HHS activities which can be defined as "actions" (see Definitions, Section 30-00-40) require an environmental review *unless* a POC has determined, through a program review, that the activity will not cause a significant environmental effect under NEPA or will not affect any of the assets protected by the related acts.

B. Program Reviews. In a program review, a POC evaluates actions it will be taking in order to determine the potential of these actions to cause an environmental effect under any of the environmental acts. POCs shall complete an initial program review of all their actions as soon as practicable following publication of this Part. POCs may undertake additional program reviews subsequently whenever they deem it appropriate.

As a result of program review, a POC shall divide each of its actions in one of three groups:

Group 1 (categorically excluded)—those actions which normally *do not* cause a significant environmental effect under NEPA or affect one or more of the assets protected by the related acts.

Group 2—Those actions which require an environmental review because they may cause a significant environmental effect under NEPA or may affect an asset.

Group 3—Those actions which normally *do* cause a significant environmental effect under NEPA or do affect one of the assets protected by the related acts.

An activity may be categorically excluded from review and documentation requirements under one or more environmental acts, even though they may not be so excluded from all such acts.

In grouping each of its actions, POCs shall use the exclusion categories described in Section 30-20-40. If action falls within one of these exclusion

categories, then it may be include in Group 1. Such actions do not require further environmental reviews. If action does not fall within one of these exclusion categories, then a POC must perform an environmental review prior to taking this action. Chapter 30-30 describes the procedures for conducting and environmental review.

Each POC shall maintain as part of its administrative issuance system lists of those actions which it has determined fall under Groups 1, 2 and 3. These lists shall supplement other internal directives or instructions relating to environment-related responsibilities.

C. Approval. A determination by a POC that an action falls within Group 1 (Categorically Excluded) is effective upon approval by the POC head. However, POCs must forward these determinations to the Assistant Secretary for Management and Budget for concurrence. Determination that an action falls within Group 1 (Categorically Excluded) is effective for the shorter of (1) five years or (2) until rendered inapplicable because of changes in the underlying program authority.

30-20-40 Categories of Exclusion

A. POCs may exclude a proposed action from the environmental review process if it determines that the proposed action falls within one of the four exclusion categories described in this Section. This determination may take place as the result of a program review of a POCs actions, in which case the action is listed in the POCs administrative issuance system as being categorically excluded from further environmental reviews.

B. Categories of Actions Which May Be Excluded From Environmental Review.—1. Category No. 1—General Exclusions. POCs do not need to perform environmental reviews in the following instances: a. When a law grants an exception;

b. When the courts have found that the action does not require environmental review (i.e., HHS is not required to prepare environmental statements concerning the termination of a hospital's status as a Medicare "provider" if termination is statutorily required because of a hospital's non-compliance with Federal fire safety regulations);

c. When an action implements actions outside the territorial jurisdiction of the United States and such actions are excluded from review by Executive Order 12114.

2. Category No. 2—Functional Exclusions. Actions associated with the following types of activities normally

are not subject to environmental review requirements:

a. Routine administrative and management support, including legal counsel, public affairs, program evaluation, monitoring and individual personnel actions;

b. Appellate reviews when HHS was the plaintiff in the lower court decision (e.g., a case involving failure by a nursing home to comply with fire and safety regulations);

c. Data processing and systems analysis;

d. Education and training grants and contracts (e.g., grants for remedial training programs or teacher training) except projects involving construction, renovation and/or changes in land use;

e. Grants for administrative overhead support (e.g., regional health or income maintenance program administration);

f. Grants for social services (e.g., support for Headstart, senior citizen programs or drug treatment programs) except projects involving construction, renovation and changes in land use;

g. Liaison functions (e.g., serving on task forces, ad hoc committees or representing HHS interests in specific functional areas in relationship with other governmental and non-governmental entities);

h. Maintenance (e.g., undertaking repairs necessary to ensure the functioning of an existing facility), except for properties on or eligible for listing on the National Register of Historic Places;

i. Statistics and information collection and dissemination (e.g., collection of health and demographic data and publication of compilations and summaries);

j. Technical assistance by HHS program personnel (e.g., providing assistance in methods for reducing error rates in State public assistance programs or in determining the cause of a disease outbreak); and

k. Adoption of regulations and guidelines pertaining to the above activities (except technical assistance and those resulting in population changes).

3. Category #3—Program Exclusions. These exclusions result from a substantive review and determination by a POC that certain programs or certain activities within a program will not normally (a) significantly affect the human environment (as defined in NEPA) or (b) affect an asset (as defined in the related acts) regardless of the location or magnitude of the action. For example, a POC, following its review, might determine that the following are unlikely to cause an environmental effect: assigning a member of the Health

Service Corps to a locality to supplement existing medical personnel or providing funds to support expansion of emergency medical services in existing hospitals.

4. Category #4—Partial Exclusions. a. A POC may determine that certain programs or elements may cause environmental effects with respect to some, but not all, of the environmental acts. For example, a POC may determine that actions associated with a particular program might affect historical properties (e.g., the renovation of an SSA district office in a historical district), but would never "significantly affect the quality of the human environment" (NEPA) or affect cultural and natural assets addressed by other related acts. The component may limit the environmental reviews to the provisions of the National Historic Preservation Act.

b. An environmental review conducted previously may be broad to satisfy environmental review requirements for future similar or related actions. For instance, a POC may conduct an environmental review with respect to a particular type of biological research, no matter where that research is conducted.

Environmental reviews of future similar or related research activities are not necessary if the effects of this new research have been already addressed in the previous environmental review.

c. There are some programs which must take an action within thirty days in response to an emergency health situation or because a law requires a Department official to act within thirty days. Such circumstances must be identified in the Categorical Review process and appropriate measures provided to comply with the intent of the laws, including appropriate consultations as required by NEPA and the related environmental acts.

30-20-50 Environmental Review Procedures

A POC must conduct environmental reviews with respect to all proposed actions which do not fall under categorical exclusions #1, #2 or #3. Chapter 30-30 discusses the process for conducting an environmental review with respect to a specific proposed action and for fulfilling documentation and other requirements. Each POC shall ensure that its programs have appropriate procedures for conducting environmental reviews, for completing required documentation and for ensuring public involvement and intergovernmental consultation. These procedures must be in writing and be included in the internal administrative

issuance system. These procedures must, at a minimum, address the following:

A. A list of those actions which the POC has categorically excluded from further environmental review requirements.

B. A list of those actions which require an environmental review prior to taking the action.

C. Designation of officials responsible for environment-related activities including determinations as to whether to prepare a full statement or a limited statement, if one is required.

D. Procedures for preparing and circulating environmental statements (including data required by the applicable environmental act for the type of action covered).

E. Procedures for ensuring the coordination of environmental review with program decision-making, including concurrent development and circulation of environmental documents with program documents and the identification of key decisionmaking points.

F. Procedures for consulting with other Federal agencies responsible for the environmental acts, if necessary.

G. Procedures for developing lead agency agreements (as described in 30-30-20 B below).

H. A prohibition against precluding or prejudicing selection of alternatives in a full statement without regard to environmental risks.

I. Procedures for establishing a reviewable record, including making environmental statements and related decision-making materials part of the record of formal rulemaking and adjudicatory proceedings.

J. Provisions for early consultation and assistance to potential applicants and non-Federal entities in planning actions and developing information necessary for later Federal involvement (as described in 30-30-20 C below).

K. Descriptions of circumstances which preclude completion of environmental reviews within reasonable time frames because of public health and safety considerations and procedures for after-the-fact completion.

L. Provision for ensuring that applications and other materials from potential grantees or other recipients of Departmental funds, on a program-by-program basis, include information necessary to conduct an environmental review. Such information shall include the identification of any properties which may be eligible for listing on the National Register of Historic Places.

M. Provision for identifying cultural assets which a program controls through

leases or Federal ownership, and for nominating any eligible historical properties to the National Register of Historic Places.

Subject: General Review Procedures for All Environmental Acts

30-30-00	Overview
10	Summary Description
20	Environmental Review
30	Environmental Statements
40	Intergovernmental Consultation and Document Review
Exhibit 30-30-A	Requirements of NEPA and the Related Acts
Exhibit 30-30-B	Flow Chart-Environmental Review Procedures

30-30-00 Overview

The environmental acts require a review of proposed Federal actions whenever they will bring about environmental effects, either within a human environment (as defined under NEPA) or to a historic property, endangered species or other asset (as defined in the related acts).

The purpose of this Chapter is to describe overall the steps which Department officials must take in conducting environmental reviews of specific proposed actions. Within these general steps, the individual environmental acts differ significantly with respect to public involvement, intergovernmental consultation and documentation required. The Chapters at 30-40, 30-50 and 30-60 following (entitled Cultural Asset Review, Natural Asset Review and NEPA Review) discuss these specific requirements in greater detail. Exhibit 30-30-A summarizes these differences.

30-30-10 Summary Description

The following is a summary description of the general types and sequence of activities which Departmental officials should carry out in reviewing specific proposed actions under this Part. Exhibit 30-30-B summarizes these activities.

A. Determine that a proposed activity constitutes an action as defined under Section 30-00-40 (Definitions).

B. Determine whether the proposed action is categorically excluded from all environmental review requirements. If so, no further environmental review is necessary.

C. For proposed actions not categorically excluded, conduct an environmental review in accordance with applicable program environmental review procedures to determine whether the proposed action will cause an environmental effect under one or more of the environmental acts.

D. Determine whether it is necessary to prepare a draft statement and, if so,

circulate the statement among the public, Federal and non-Federal agencies and other interested parties, as appropriate.

E. Carry out the requirements for public involvement and intergovernmental consultation as required under the applicable environmental acts, including any necessary approvals.

F. Prepare a final statement and proceed with the program decision-making process.

3-30-20 Environmental Review

A. General. POCs must perform an environmental review for each proposed action not categorically excluded in accordance with the POCs environmental procedures. The purpose of an environmental review is to answer the following general questions. (Individual environmental acts differ with respect to the specific scope and methodology required in conducting an environmental review.):

1. Will a proposed action have an environmental effect under any of the environmental acts as defined in regulation or by court interpretation?

2. Which environmental acts apply to the proposed action.

3. do any previous environmental reviews exist on similar or related actions which could satisfy the review requirements of a particular proposed action?

4. Should the HHS component prepare a limited statement or a full statement given the environmental acts involved and the kinds and degree of environmental effects anticipated?

B. Agreements with Other Agencies. When two or more agencies are engaged in the same action, a lead agency agreement provides one agency with the authority to conduct the environmental review. These agreements determine the content and type of statement and specify which Federal agency will prepare it. The agreement includes a schedule for the preparation and circulation of the document, as well as an assignment of important tasks among the agencies involved. Lead agency agreements may be signed with other agencies for individual actions or for a particular type of action.

C. Non-Federal Agencies. Whenever an HHS program requests or permits a non-Federal agency to perform an environmental review, the program shall outline the type of information required, perform an independent evaluation and assume responsibility for the scope and content of the material.

30-30-30 Environmental Statements

A. On the basis of the environmental review, POCs shall determine whether to prepare a limited environmental statement or a full environmental statement.

The designations "limited statement" and "full statement" refer to categories of documents as defined earlier under 30-00-40 G and H. Each of the environmental acts specifies different documentation and public involvement and consultation requirements within these two general categories.

Full statements are prepared in two stages: draft and final. A final statement includes a consideration of comments submitted by persons or organizations reviewing the draft statement. Under some laws covered by this Part, a limited statement may also have to be prepared in draft for review and comment, before being finalized.

The Chapters at 30-40, 30-50, and 30-60 following (Natural Asset Review, Cultural Asset Review and NEPA Review) discuss these different requirements in greater detail and must be consulted to ascertain the specific requirements of NEPA and each of the related acts.

B. *Description.*—1. *Full Statements.* A full statement identifies the proposed action, its purpose and its associated environmental effects in comparison with no action by any organization to achieve the underlying purpose. It further compares no action with other alternative actions, including their environmental effects. Draft full statements shall not exhibit biases in favor of the proposed action. A final statement may include a recommendation with a rationale for a preferred action.

2. *Limited Statements.* A limited statement is generally a short concise document which describes the proposed action, identifies its environmental effects and lists any mitigating measures or safeguards that will lessen or prevent certain environmental changes from occurring. POCs generally can use a draft limited statement in order to satisfy any review, consultation and public notice requirements of the environmental acts and to otherwise

inform individuals and organizations who may be interested in or affected by the proposed action (see Chapter 30-60 for correct NEPA terminology).

C. *Validity.* Statements for continuing actions are valid for three years, unless a change occurs in carrying out the actions or pivotal new data concerning the effects of each action is identified.

Statements for an individual action are valid for a period of 18 months after the issuance of the documentation. Reviews for individual actions not initiated within 18 months require review and reissuance.

D. *Alternatives.* Full statements must explore and evaluate reasonable alternatives to the proposed action in terms of their environmental consequences, benefits and costs and contribution to the underlying purpose or goal. Discussion of alternatives must be sufficiently in-depth to permit a meaningful comparison of alternative courses of action.

Full statements shall consider the following categories of alternatives, as appropriate: 1. *No action by any organization.*—This alternative serves as a baseline against which to measure the environmental consequences, costs and benefits of the proposed action and other alternatives.

2. *Action Alternatives.*—One or more alternative courses of action directed at achieving the underlying purpose or goal. The full statement cannot automatically exclude actions.

- Outside of the expertise or jurisdiction of Departmental components, e.g., examining the possible use of other real properties other than that proposed for transfer by HHS; or
- Which only partially achieve an underlying goal or objective, e.g., funding a health care facility at a lower capacity for patient care.

However, action alternatives considered must be reasonably available, practicable and be related to the underlying purpose or goal. A full statement must include all reasonable alternatives.

3. *Alternative Safeguards.*—These are alternative actions which could mitigate the adverse environmental consequences of one or more of the action alternatives.

4. *Delayed Action Alternative.*—This alternative is to postpone or delay a proposed action in order to conduct more research or for other reasons.

5. *Alternative Uses.*—When a proposed action would affect a scarce or valuable resource (e.g., prime agricultural farmland), the potential alternative uses of the resource must be identified so that they may be compared with the value of the proposed action.

30-30-40 Intergovernmental Consultation and Document Review

POCs are responsible for meeting the various requirements under environmental acts for intergovernmental consultation and public involvement. These requirements differ significantly. POCs should refer to the more detailed descriptions in Chapters 30-40, 30-50, and 30-60 and should consult an environmental officer for guidance.

As required, POCs shall circulate draft statements for review and comment, and otherwise make them available to the public upon request. Statements should be circulated to the Federal Agency responsible for administering the applicable environmental act, involved non-Federal agencies at the State or local level, including A-95 clearinghouses, and interested public persons or groups within the geographic area of the environment affected. The review period is generally no less than 30 days for a draft limited statement and no less than 60 days for a draft full statement. Whenever a draft statement is significantly revised because of comments received or because the nature or scope of the proposed action changes significantly, POCs shall prepare a new draft statement for circulation. Circulation of certain portions of the document is not necessary when it involves the following: A. *National Security.* Circulation of classified sections of environmental documents are subject to regulations pertaining to matters of national security.

B. *Trade Secrets.* Circulation of sections of environmental documents that disclose a trade secret is limited to those who need to have access in order to take appropriate action.

Requirements of NEPA and the Related Environmental Acts

[Exhibit 30-30-A—General Administration Manual]

Authority	Documentation and circulation			Type of response or permission required
	No. 1 draft limited statement ¹	No. 2 final limited statement or draft final statement	No. 3 final full statement	
National Historic Preservation Act.	(a) Finding of effect (but not Adverse). (b) Finding of adverse effect..	(Finalize—if council does not object). (Finalize—if council concurs with mitigation measures).	Preliminary case report (as requested by the council). Case report.....	Yes. The council staff (or chairman must concur or the issue is brought to the full council at a quarterly meeting. The final decision belongs to the agency. None, but delay is possible if the Secretary of the Interior wants to pay for recovery.
National Archeological Data Preservation Act.	Information provided to Secretary of Interior.	(Finalize).....	.....	Yes. For certain projects no further action may be taken until the Secretary of Commerce determines that it is consistent with CZM or needed for national security.
Coastal Zone Management Act.	To State CZM Agency; To Secretary of Commerce.	(Finalize).....	As requested by the Secretary of Commerce.	Yes. By the secretary (of HEW) (applies to capital improvements only) Yes. Response required from DOI and action prohibited if species endangered by the project
Floodplains E.O. 11987 .....	.....	.....	For review by the Secretary (of HEW). (Finalize).....	Yes. Response form DOI required before No. 2.
Endangered Species Act.....	To DOC or DOI.....	(Finalize).....	.....	Yes. Prohibited without approval of Secretary of DOI.
Fish and Wildlife Act	To DOI	(Finalize).....	.....	Yes. By the Secretary (of HEW) if new construction. By POC for all others.
Wild and Scenic Rivers Act.....	To DOI	(Finalize).....	.....	Yes. Administrator of EPA may prohibit the action if it will contaminate a sole source aquifer.
Wetlands E.O. 11990.....	For POC review	(Finalize).....	For review by the Secretary (construction actions) and as requested by the POC. (Finalize).....	Yes. The Secretary of Commerce must certify that action is consistent with purposes of act.
Safe Drinking Water Act (Aquifers).	To EPA	(Finalize).....	.....	Agency may make own decision after issuing final EIS except when another Federal agency request CEQ intervention.
Marine Sanctuaries Act.....	To DOC.....	(Finalize).....	.....
National Environmental Policy Act.	.....	Finding of no significant impact (publish notice when appropriate).	Draft environmental impact statement (program decision). Final Environmental Impact statement.	

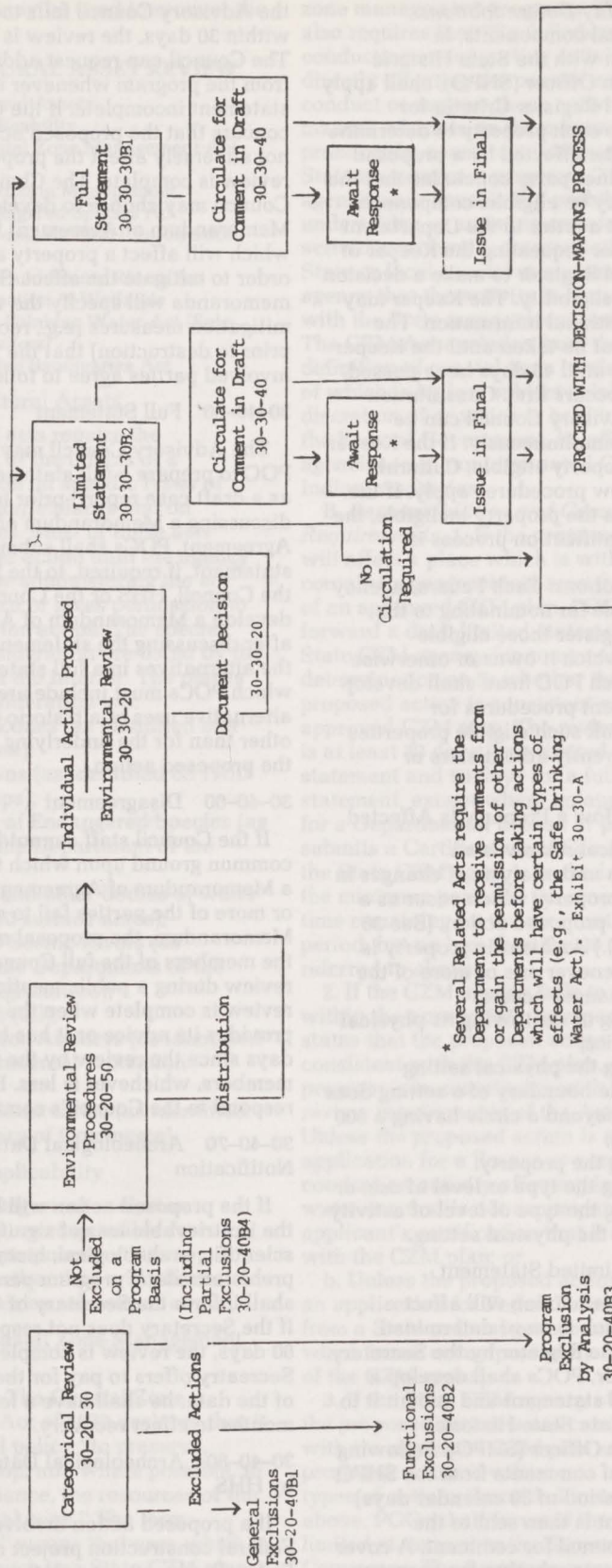
¹ Several related acts require the department to receive comments from or gain the permission of other departments before taking actions which will have certain types of effects (e.g., the Safe Drinking Water Act). Exhibit 30-30-A.

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FLOW CHART - ENVIRONMENTAL REVIEW PROCEDURES

PROGRAM-WIDE REVIEW

INDIVIDUAL ACTION REVIEW



* Several Related Acts require the Department to receive comments from or gain the permission of other Departments before taking actions which will have certain types of effects (e.g., the Safe Drinking Water Act). Exhibit 30-30-A

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Subject: Cultural Asset Review

- 30-40-00 Historic Preservation
 - 10 Applicability
 - 20 Identification of Historic Properties
 - 30 How a Property is Affected
 - 40 Limited Statement
 - 50 Full Statement
 - 60 Disagreement
 - 70 Archeological Data: Notification
 - 80 Archeological Data: Recovery

330-40-00 Historic Preservation

Section 106 of the National Historic Preservation Act states that the Advisory Council for Historic Preservation (ACHP) will have an opportunity to comment on any proposed Federal undertaking which will affect a historic property which is listed on or is eligible for listing in the National Register of Historic Places. The Archeological Data Preservation Act states that the Secretary of the Interior shall have an opportunity to recover significant historical or scientific data irrevocably lost through a Federal undertaking. In addition, the latter permits agencies to spend up to one percent of project funds for the recovery of data.

30-40-10 Applicability

Unless a categorical exclusion applies, each proposed HHS action must be reviewed in order to determine whether it will affect a property which is on or eligible for the National Register of Historic Places

30-40-20 Identification of Historic Properties

Each Federal agency has a responsibility for identifying potential properties for the National Register of Historic Places. It must nominate to the National Register of Historic Places, eligible properties which it owns or otherwise controls and seek eligibility determinations from the Secretary of the Interior for potentially eligible properties which it will affect by a proposed action. (See 35 CFR 60.6.) Implementation of a proposed action may not occur until the completion process, and any appropriate additional requirements, are met (e.g., consultation with the Advisory Council).

A. Eligible Properties. 1. Properties are districts, sites, buildings, structures or objects.

2. Properties may be eligible because of their association with significant historical events, or the lives of persons significant in our past; because of distinctive artistic characteristics; or because they are likely to yield important historical information.

B. Eligibility Determinations.

Departmental components, in consultation with the State Historic Preservation Officer (SHPO), shall apply the National Register Criteria for Eligibility to each property to determine which may be affected by a proposed action. If either party concludes that the property may be eligible, components shall submit a letter to the Department of the Interior requesting the Keeper of the National Register to make a decision concerning eligibility. The Keeper may request additional information. The action cannot be taken until the Keeper responds or until 45 days have passed, whichever occurs first. Consultation with the Advisory Council can be conducted simultaneously. If the Keeper finds the property eligible, Cultural Asset Review procedures apply. If the Keeper finds the property ineligible, the cultural identification process is complete.

C. Nominations. Each Federal agency is responsible for nominating to the National Register those eligible properties which it owns or otherwise controls. Each POC head shall develop and implement procedures for nominating all such eligible properties which it currently administers or controls.

30-40-30 How a Property Is Affected

An historical review is an examination and analysis of changes in an historic property which occur as a result of the proposed action. (See 36 CFR 800.3(a).) An historic property is affected whenever one or more of the following changes occurs:

- A. Altering or destroying its physical characteristics;
- B. Altering the physical setting (normally the boundary of a setting does not extend beyond a circle having a 500 yard radius);
- C. Moving the property;
- D. Altering the type or level of use; or
- E. Altering the type of level of activity occurring in the physical setting.

30-40-40 Limited Statement

If a proposed action will affect a property which is on or determined eligible for the Register by the Secretary of the Interior, POCs shall develop a draft limited statement and submit it to the appropriate State Historic Preservation Officer (SHPO). Following the receipt of comments from the SHPO (or after a period of 30 calendar days) the statement is then sent to the Advisory Council for comment. A cover letter shall state whether the program considers the effects to be adverse within the context of the historic value of the property (see 36 CFR 800.3(b)). If

the Advisory Council fails to respond within 30 days, the review is complete. The Council can request additional data from the program whenever it finds the statement incomplete. If the Council concurs that the proposed action will not adversely affect the property, the review is complete. The Chairman of the Council may choose to develop a Memorandum of Agreement for actions which will affect a property adversely in order to mitigate the effect. Such memoranda will specify the various mitigation measures (e.g., record data prior to destruction) that the various involved parties agree to follow.

30-40-50 Full Statement

The Advisory Council may request the POC to prepare a full statement (known as a draft case report) prior to discussing a Memorandum of Agreement. POCs shall submit a full statement, if required, to the SHPO and the Council. HHS or the Council may develop a Memorandum of Agreement after discussing the statement. Among the alternatives in a full statement which POCs must include are alternative uses of a historic property other than for the underlying purpose of the proposed action.

30-40-60 Disagreement

If the Council staff cannot find a common ground upon which to develop a Memorandum of Agreement or if one or more of the parties fail to sign the Memorandum, the proposal must go to the members of the full Council for their review during a public meeting. The review is complete when the Council provides its advice or it has been 15 days since the review by the Council members, whichever is less. HHS must respond to the Council's comments.

30-40-70 Archeological Data: Notification

If the proposed action will bring about the irretrievable loss of significant scientific, archeological, historic or prehistoric data, program personnel shall inform the Secretary of the Interior. If the Secretary does not respond within 60 days, the review is complete. If the Secretary offers to pay for the recovery of the data, he shall have a least six months to effect recovery.

30-40-80 Archeological Data: Recovery by HHS

If a proposed action involves a Federal construction project or a Federally-licensed project, and the action will result in the irretrievable loss of scientific, archeological, historic or prehistoric data, up to one percent of the

project costs may be used to recover the data.

Subject: NATURAL ASSET REVIEW

- 30-50-00 Natural Assets
 - 05 Applicability
 - 10 Coastal Zone Management Act (CZMA)
 - 20 Floodplain Management
 - 30 Endangered Species Act
 - 40 Fish and Wildlife Coordination Act
 - 50 Wild and Scenic Rivers Act
 - 60 Protection of Wetlands
 - 70 Safe Drinking Water Act (Sole Source Aquifers)
 - 80 Marine Sanctuaries Act

30-50-00 Natural Assets

The related acts require the consideration of the effects of a proposed action on specific *types* of places, on *specific* places and on *specific* species. Most of these acts prohibit further action until the agency responsible for administering the act provides advice or gives permission to proceed with the action. The species requiring consideration are listed by the Department of the Interior. The places requiring consideration are:

- A. Coastal Zones (as identified in a State CZM plan);
- B. Floodplains (as identified on HUD floodplain maps);
- C. Habitats of Endangered Species (as identified by the Department of the Interior);
- D. Streams and other bodies of water (in excess of 10 surface acres);
- E. Wild and Scenic Rivers (as identified by the Departments of the Interior and Agriculture);
- F. Wetlands (all);
- G. Sole Source Aquifers (as identified by the Environmental Protection Agency); and
- H. Marine Sanctuaries (as identified by the Secretary of Commerce).

30-50-05 Applicability

Unless a categorical exclusion applies, POCs are responsible for reviewing all proposed actions to determine whether they will affect places and species referenced above.

30-50-10 Coastal Zone Management Act (CZMA)

A. Purpose. The Coastal Zone Management Act of 1972 declares that it is the national policy "to preserve, protect, develop, and where possible, to restore or enhance, the resources of the Nations coastal zone." The term "coastal zone" means that area which is identified as such in a State CZM plan. In furtherance of this policy, the Act provides Federal assistance to States for developing and implementing coastal

zone management programs. The Act also requires that "Each Federal agency conducting or supporting activities directly affecting the coastal zone shall conduct or support those activities in a manner which is, to the maximum extent practicable, consistent with approved State management programs." Federal agencies are specifically prohibited from undertaking or assisting certain activities without a determination by the State or local coastal management agency that the activity is consistent with the State management program. The CZM Act excludes from the definition of coastal zone lands the use of which is by law subject solely to the discretion of or which is held in trust by the Federal Government, its officers or agencies (e.g., nonterminated California Indian rancherias).

B. Responsibilities and Consultation Requirements. 1. If the proposed action will affect a place which is within or contains a geographical area that is part of an approved CZM plan, POCs shall forward a draft limited statement to the State CZM agency for comment and a determination as to whether the proposed action is consistent with the approved CZM plan. The review period is at least 30 days for a limited statement and 60 days for a full statement, except where an applicant for a Departmental license or permit submits a Certification of Compliance to the State CZM agency. In the latter case, the minimum period is the amount of time remaining on the six month review period, but no less than the 30 or 60 days referred to above.

2. If the CZM agency fails to respond within the appropriate time period, or states that the proposed action is consistent with the CZM plan, a program is in compliance with the review requirements of the Act: a. Unless the proposed action is an application for a license or permit to conduct an activity affecting land or water use that is not accompanied by an applicant's certification that it complies with the CZM plan; or

b. Unless the proposed action involves an application for Federal assistance from a State or local government agency which is not accompanied by the views of the CZM agency.

3. If the State CZM agency states that the proposed action is not consistent with the approved CZM plan and the proposed action involves one of the types of actions described in 2a or b above, POCs shall forward the draft limited statement to the Secretary of Commerce. The Secretary may request additional data in the form of a full statement. In any case, no further action will take place until and unless the

Secretary of Commerce finds that the proposed action is consistent with the purposes of the CZM Act or is necessary for national security.

4. If the State CZM agency states that the proposed action is not consistent with the approved CZM plan, and the proposed action does not involve one of the types of actions described in 2 above, the proposed action must have the approval of the responsible POC before proceeding.

5. The above requirements shall not apply to those types of actions which are specifically excluded by the approved CZM plan.

30-50-20 Floodplain Management

A. Purpose. Executive Order 11988 of May 24, 1977, directs each Department to avoid long- and short-term adverse impacts associated with the occupancy and modification of floodplains, including the direct and indirect support of floodplain development, whenever there is a practicable alternative. Floodplains are those areas identified as such according to a Department of Housing and Urban Development floodplain map. (See U.S. Water Resources Council Floodplain Management Guidelines for further information.)

B. Responsibilities and Circulation Requirements. 1. If a proposed action will result in a capital improvement occurring within a floodplain, the cost of which will exceed 50% of the estimated reconstruction costs of an entire facility or \$100,000, or clearly will provide direct or indirect support of subsequent floodplain development, POCs will prepare a draft full statement. (A limited statement is not acceptable in this instance.)

2. The draft full statement shall contain, in addition to identifying practicable alternatives to avoid affecting a floodplain, the following information: a. the reasons for locating the proposed action in a floodplain; and b. a statement indicating whether the action conforms to applicable State or local floodplain protection standards.

For those actions subject to OMB Circular A-95, the POC shall send the notice to the State and area-wide clearinghouses for the geographical area affected and include a location map.

3. Circulation of draft full statements shall include the public and other interested individuals, including concerned Federal, non-Federal and private organizations. Interested parties shall have a period of 60 days for the review and comment on draft full statements.

4. No action shall take place without a finding by the Secretary that the only

practicable alternative requires siting in a floodplain and until 30 days after the issuance of the final statement which shall constitute a notice of finding as required by the WRC guidelines.

5. An action taken in a floodplain must incorporate design features consistent with the standards in the Flood Insurance Program of the Federal Insurance Administration to minimize substantial harm to the floodplain.

30-50-30 Endangered Species Act

The Endangered Species Act establishes a policy to conserve endangered and threatened species, both within the U.S. and elsewhere.

A. Purpose. Section 7 of the Endangered Species Act requires each Department to take "such action necessary to insure that their actions . . . do not jeopardize the continued existence of endangered or threatened species . . ." as listed in the **Federal Register** from time to time by the Secretaries of Commerce and Interior. Federal Departments shall, in consultation with these Secretaries, carry out the purpose of the Act.

B. Responsibilities and Consultation Requirements. 1. a. If the proposed action is a construction project which requires the preparation of an environmental impact statement (EIS) (see Chapter 30-60) program personnel shall contact the Office of Endangered Species (OES), Department of Interior, and provide a brief description, including the location of the proposed project. The OES will provide program personnel with a list of endangered species and critical habitats for the specific geographic area to use in determining whether the action will have an effect upon a member of an endangered or threatened species or an identified critical habitat. If it will, program personnel will prepare a draft limited statement.

b. If the proposed action is not a construction project, or a construction project not requiring an EIS, program personnel shall determine if the proposed action will have an effect upon species or habitats listed in the **Federal Register** and, if so, prepare a draft limited statement. (See appropriate environmental officer for **Federal Register** listings.)

2. All draft statements are sent, together with a request for consultation, to the Regional Director of the Fish and Wildlife Service or National Marine Fisheries Service as appropriate. No further action shall take place pending completion of the consultation process.

3. If the Service does not respond within 90 days, the Department may reach its own conclusion with respect to

whether the proposed action will jeopardize the continued existence of a species or result in the destruction or adverse modification of a critical habitat.

4. If the Service or the Department determines that the proposed action will jeopardize the continued existence of a species or result in the destruction or adverse modification of a critical habitat, program personnel may submit an exemption application to the Secretary of the Interior for consideration by the Endangered Species Committee (ESC). No action shall occur unless or until the ESC approves the exemption.

30-50-40 Fish and Wildlife Coordination Act

A. Purpose. The Fish and Wildlife Coordination Act provides for equal consideration of wildlife with other features of water resource development programs with a view toward conservation of wildlife resources.

B. Responsibilities and Consultation Requirements. 1. When the waters of any stream, or other body of water which exceeds 10 acres, will become impounded, diverted, deepened, or otherwise controlled or modified for any purpose, the department shall consult first with the U.S. Fish and Wildlife Service, Department of the Interior, and the State agency head responsible for administering wildlife resources.

2. Program personnel shall prepare a draft limited statement, describing the effects of an action which will result in effects described in 1 above and submit it to the Secretary of the Interior.

3. No further action shall take place pending receipt of a report from the Secretary of the Interior.

4. POCs shall consider the report of the Secretary of the Interior, together with its recommendations in developing the project plan. The plan shall include such justifiable means and measures as are necessary to obtain maximum overall project benefits.

5. All reports and recommendations of the Secretary of the Interior and State wildlife agencies constitute an integral part of any environmental report prepared pursuant to the action.

30-50-50 Wild and Scenic Rivers Act

A. Purpose. The purpose of the Act is to preserve selected free flowing rivers, along with their immediate environments, for the benefit of immediate and future generations. These include river components and potential components of the National Wild and Scenic River System and study areas designated by the Secretaries of Agriculture and Interior, (Environmental

officers keep a list of these rivers and related study areas.) Designations used to describe these components, or parts thereof, include the following: (1) wild, (2) scenic, and (3) recreational.

B. Responsibilities and Consultation Requirements. 1. When a proposed action will have an effect upon an environment within or including a portion of a component, potential component or study area, program personnel shall send a draft limited statement to the Heritage Conservation and Recreation Service (HCRS), Department of Interior for review.

The following are examples of circumstances which can affect a river component or study area:

a. Destruction or alteration of all or part of the free flowing nature of the river;

b. Introduction of visual, audible, or other sensory intrusions which are out of character with the river or alter its setting;

c. Deterioration of water quality; or

d. Transfer or sale of property adjacent to an inventoried river without adequate conditions or restrictions for protecting the river and its surrounding environment.

2. If HCRS does not respond within 30 calendar days or states that the proposed action will not directly or adversely affect the area, the Department is in compliance with the review requirements of the Act. However, in those instances where HCRS does not respond, programs shall take care to always avoid or mitigate adverse effects on river components and study areas.

3. If the HCRS determines that the proposed action will directly and adversely affect the area, no further action shall take place whenever the proposed action involves the construction of a water resources project.

4. The above requirements do not apply to types of actions excluded from the review process by appropriate Department of Interior or Agriculture regulations.

30-50-60 Protection of Wetlands

A. Purpose. Executive Order 11990 of May 24, 1977, directs each Department to minimize the destruction, loss, or degradation of wetlands and to preserve and enhance such wetlands in carrying out their program responsibilities. Consideration must include a variety of factors, such as water supply, erosion and flood prevention, maintenance of natural systems and potential scientific benefits. Wetlands generally include swamps, marshes, bogs and similar areas inundated by water to a degree

which permits the support of aquatic life.

B. Responsibilities and Circulation Requirements. 1. If a proposed action will have an environmental effect upon a wetland, the draft limited statement shall contain a section which compares the purpose of the proposed action with the purposes of this Executive Order.

2. No further action shall take place until the POC makes a decision that the proposed action includes all reasonable measures to minimize harm to the wetlands as a result of the proposed action.

3. Draft limited statements and draft full statements for actions involving changes in title to wetlands or leases, easements or permits, shall contain, as mitigation measures, proposed restrictions and reservations developed pursuant to the purpose of the Executive Order.

4. Draft full statements are required for proposed actions involving new construction in or on wetlands. No further action shall take place until the Secretary of HHS determines that there is no practicable alternative to such construction and that the proposed action includes all practicable measures to minimize harm to the wetlands.

5. These requirements do not apply to the issuance to individuals of permits and licenses and the allocation of funds made to individuals.

30-50-70 Safe Drinking Water Act (Sole Source Aquifers)

A. Purpose. Section 1424(e), the Safe Drinking Water Act, provides for the protection of those aquifers which have been designated by the Administrator of the Environmental Protection Agency as the sole or principal source of drinking water for a community.

B. Responsibilities and Consultation Requirements. 1. A review shall determine if a proposed action will directly or indirectly affect a designated aquifer.

2. If the action will affect an aquifer, program personnel shall send a draft limited statement to the Regional Administrator, Environmental Protection Agency, who shall review the action in order to determine if it will create a public health hazard.

3. The action shall not proceed any further unless and until the Administrator of the Environmental Protection Agency determines that the proposed action will not contaminate the designated aquifer so as to create a hazard to public health.

30-50-80 Marine Sanctuaries Act

A. Purpose. Title III of the Marine Protection, Research and Sanctuaries

Act prohibits Federal Departments from taking actions which will affect a Marine Sanctuary unless the Secretary of Commerce certifies that the activity is consistent with the purposes of the Act. Listings of sanctuaries are designated by the Secretary of Commerce and maps of sanctuaries appear in the **Federal Register**.

B. Responsibilities and Consultation Requirements. 1. If the proposed action will create an environmental effect on a marine sanctuary, program personnel shall prepare a draft limited statement and forward it to the Secretary of Commerce.

2. No further action shall take place unless and until the Secretary certifies that the action is consistent with the purposes of the Act.

Subject: NEPA Review

30-60-00 Background

- 05 Applicability
- 10 Responsibilities
- 20 Determining Appropriate NEPA Documentation
- 30 Findings of No Significant Impact
- 40 Environmental Impact Statements
- 50 Contents of an EIS
- 60 Public Involvement and Circulation of NEPA Environmental Statements

30-60-00 Background

The National Environmental Policy Act of 1969 (Pub. L. 91-190), as amended, establishes policy and requirements governing all Federal Departments and agencies with respect to protecting the environment. This chapter supplements specific requirements established by NEPA and by the associated implementing regulations promulgated by the Council on Environmental Quality (CEQ). (40 CFR 1500-1508)

NEPA requires all Federal Departments and agencies to take into account all potential environmental consequences of their activities prior to initiation of these activities. Specifically, Section 102(2)(c) of NEPA requires all agencies of the Federal government to include an environmental statement "in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment." The purpose of this and other requirements is to ensure that environmental information is available to public officials and citizens before Federal agencies make decisions to take actions which could significantly affect the environment.

30-60-05 Applicability

Unless a categorical exclusion applies, POCs are responsible for reviewing all proposed actions. CEQ regulations require each Department to

establish criteria for determining categorical exclusions. A POC must determine that the action taken by a program would never significantly affect the quality of the human environment in accordance with the criteria discussed in 30-60-20.

30-60-10 Responsibilities

POCs shall review each of their programs to determine those which may be categorically excluded and provide the Office of Environmental Affairs with a list which shall be submitted to CEQ for approval pursuant to 40 CFR 1507.3(b)(2) and then published. The POCs shall develop procedures for each program not categorically excluded in order to determine the data needed for environmental assessments* and a system for acquiring such data. The POCs shall prepare an environmental assessment for each proposed action not categorically excluded and, as a result, prepare a Finding of No Significant Impact (FONSI)* or an Environmental Impact Statement (EIS).*

30-60-20 Determining Appropriate NEPA Documentation

A. General. In order to identify the required documentation, an environmental assessment must be performed. This assessment eventually will be used to prepare a FONSI or EIS. An action will result in a series of consequences. One or more of these consequences may change the manner in which an environment would function without the action. In preparing the assessment, it is necessary to clearly identify the consequences, the environments affected, and the changes that would occur if the action were taken.

B. criteria. In determining whether a proposed action will or will not "significantly affect the quality of the human environment," POCs should evaluate the expected environmental consequences of a proposed action by means of the following steps:

Step One—Identify those things that will happen as a result of the proposed action. An action normally produces a number of consequences. For example, a grant to construct a hospital . . . may terminate human services; will involve destruction and construction; will provide a service.

Step Two—Identify the "human environments" that the proposed action will affect. In accordance with Section 1508.27 pertaining to context, the human

*CEQ terminology is used in this chapter. For purposes of coordination with other previous sections, an "environmental assessment" is an "environmental review", a "FONSI" is a "limited statement" and an "EIS" is a "full statement."

environments affected by the action must be identified. These include terrestrial, aquatic, subterranean and aerial environments, such as islands, cities, rivers or parts thereof. However, a human environment must be of reasonable size in order to require an EIS. (Note that a mud puddle is an environment and that, if destroyed, it would be "significantly affected".) Therefore, the environmental assessment need not address the significance of effects pertaining to environments which are smaller than the following:

Type of environment	With clearly defined boundaries	Without clearly defined boundaries
Terrestrial space.....	1 acre.....	160 acres
Subterranean space.....	1,000 cubic yards.....	500,000 cubic yards
Aquatic space.....	5,000 cubic yards.....	50,000 cubic yards
Aerial space.....	1 cubic mile.....	10 cubic miles
Human settlements (density exceeding one person per acre).	160 acres.....	160 acres

A proposed action may affect both smaller and larger "human environments" (e.g., part of a city, the whole city, the metropolitan area, the State, the region). In determining the environmental consequences of a proposed action under NEPA, POCs should identify barriers (e.g., a river or a highway) which tend to give geographic definition to an environment (e.g., a superhighway or river may tend to separate one terrestrial ecosystem from another).

Step Three—Identify the kinds of effects that the proposed action will cause on these "human environments." A change occurs when a proposed action causes the "human environment" to be different in the future than it would have been absent the proposed action. These changes involve the introduction of various "resources" (including those often characterized as waste).

Example: an increase in a human or wild animal population; a decrease in the amount of soil entering a stream; the introduction of a new chemical compounds to natural environments.

In addition to organisms, substances, and compounds, the term "resources" include energy (in various forms), elements, structures, and systems (such as a trash collection service in a city). Time periods in both the near term and long term must be considered.

Example: a change in regulations permits the use of a new compound in small quantities. In the near term the compound does not affect any organisms. However, the

compound eventually becomes concentrated in specialized localities and does affect organisms.

Example: a hospital is renovated, requiring a detour in traffic through residential neighborhoods and an increase in the number of patients in other hospitals. However, following completion of the work, the traffic flow and patient loads resemble those that would have occurred without the renovation.

In identifying changes caused by the proposed action, POCs should identify the magnitude of the changes likely to be caused within smaller and larger "human environments" affected (e.g., part of a city, the whole city, the metropolitan area, etc.).

Example: the closure of a hospital in a neighborhood may not only affect that neighborhood but the delivery of health services to the city as a whole.

Step Four—Identify whether these changes are significant. Determining whether or not a proposed action will cause significant change in the human environment involves a subjective judgment. The following points should be considered in conjunction with 40 CFR 1508.8 (effects) and 40 CFR 1508.14 (human environment) in making a decision concerning significance:

- A change in the characterization of an environment is significant (e.g., from terrestrial to aquatic);
- The establishment of a species in or removal of a species from an environment is significant;
- The more dependent an environment becomes on external resources, the larger the magnitude of change (and the more likely to be significant);
- The larger the environment under consideration, the lower the amount of change needed before the change should be judged significant;
- Changes which do not produce direct, indirect, or cumulative effects which will last beyond one year would not be judged significant; and
- Changes which are remotely possible and involve a relatively small environment should not be judged significant.

Note.—The above criteria considers and supplements the CEQ definition of "significantly" at 40 CFR 1508.27, except for the following terms which shall follow requirements issued by CEQ pursuant to 40 CFR 1506.7:

1. "Affected interests" as used in 40 CFR 1508.27(a);
2. "Public health or safety" as used in 40 CFR 1508.27(b)(2);
3. "Highly controversial" as used in 40 CFR 1508.27(b)(4);
4. Actions affecting cultural assets as described in 40 CFR 1508.27(b)(8) except as such changes may significantly affect the environment of the cultural resource; and

5. Applicable Federal, State or local laws or requirements in 40 CFR 1508.27(b)(10), except as listed in Subsection 30-10-20.

30-60-30 Finding of No Significant Impact—FONSI (Limited Statement)

For the purposes of NEPA, a FONSI is used to document, per section 1508.13, a POC judgment that a proposed action not categorically excluded from NEPA requirements (see 30-60-10A above) will not significantly affect the quality of the human environment. A FONSI should meet the criteria described in Chapter 30-30-30B2 and, in addition.

A. Include a list of agencies and persons consulted during its preparation;

B. Discuss why the proposed action will not significantly affect the human environment, including the environmental assessment or a summary thereof;

C. Discuss alternatives whenever an unresolved conflict exists with respect to alternative uses of available natural resources; and

D. Be made available to the public and other interested parties including, when appropriate, publication of a notice announcing its availability consistent with 40 CFR 1506.6(b) and 1501.4(e)(2).

30-60-40 Environmental Impact Statement—EIS (Full Statement)

A. *General.* A POC responsible for carrying out a specific action is responsible for preparation of an EIS, if one is required.

B. *Involvement of Other Federal Agencies.* In cases in which HHS participates with other Federal agencies in a proposed action, one agency will be the lead agency and will supervise preparation of an EIS if one is required. A Memorandum of Understanding among all involved agencies may be useful in summarizing the relative responsibilities of all involved agencies. Lead agency responsibility should be determined in accordance with Section 1501.5.

C. *Involvement of States.* In cases in which a POC participates with State and local governments in a proposed action, the POC is responsible for preparing an EIS except that a State agency may jointly prepare the statement if it has State-wide jurisdiction, and HHS participates in its preparation including soliciting the views of other State or Federal agencies affected by the statement.

D. *Notice of Intent.* Upon deciding to prepare an EIS, a POC shall publish a *Notice of Intent* in the *Federal Register* in accordance with Section 1508.22.

E. Draft and Final Statements. Except for proposals for legislation, POCs shall prepare EISs in two stages: draft and final.

Statements relating to proposals for legislation shall be submitted to Congress at the time the legislation is proposed to Congress or up to 30 days afterwards. Except under certain circumstances described in CEQ regulations (see 40 CFR 1506.8), draft statements shall accompany legislative proposals.

F. Supplements. POCs shall prepare supplements to either draft or final statements if there is a substantial change in the proposed action or if significant new information becomes available or new circumstances occur. Preparation and circulation of supplements is the same as that for draft and final EISs.

30-60-50 Contents of an EIS

An EIS consists of three sections: a forward, main text and appendices. If a proposed action will also affect a cultural or natural asset (as defined in the related acts), the statement shall incorporate the material required by the applicable related acts.

A. Cover Sheet. This shall be one page and state whether the document is a draft or final, the title and location of the proposed action, the name of the agency responsible for the EIS, including the lead agency and any cooperating agencies, the name, address and telephone number of a knowledgeable agency contact, a one paragraph abstract, and the date by which comments must be received.

B. Summary. The summary summarizes the main text, lists the names of those who assisted in preparing the statement and lists the government and private agencies or organizations requested to comment on the draft statement.

C. Main Text. The main text describes the proposed action, its underlying purpose and need, alternatives considered to the proposed action and, in conjunction with these alternatives, the environments which would be affected. (See the discussion of alternatives at Chapter 30-30). It contains an analysis of the environmental, economic and social consequences of the proposed action and the alternative actions and a discussion of alternative safeguards which could mitigate these environmental consequences. If the proposed action involves using a scarce resource (e.g., prime agricultural land), the text will address alternative uses of that resource, including uses which may not contribute to the underlying purpose

of the proposed action. The text shall list the preparers.

The text of a draft and final statement are the same (with appropriate revisions and additions) except that a final statement:

1. Shall identify the preferred alternatives;
2. Shall identify alternatives which are environmentally preferable with a rationale; and
3. Shall respond to comments made by reviewers of the draft statement; all comments by Federal and other public agencies must appear in their entirety in the appendix.

D. Appendices. Appendices contain supporting documentation, if needed, and any scientific information that is too technical or detailed for complete presentation in the main text of the statement.

30-60-60 Public Involvement and Circulation of NEPA Environmental Statements

A. Public Notice. POCs must give public notice in the following instances:

1. Prior to preparing a draft statement in order to solicit public participation; and

2. Prior to any public hearings. EPA will publish in the **Federal Register** notice of the availability of HHS draft and final EISs. Notice shall be made through direct mail, the **Federal Register**, local media or other means appropriate to the scope, issues and extent of public concern. Public notices shall include the name and location of a contact official through whom additional material may be obtained.

B. Public Hearings. HHS components shall hold public hearings as part of the NEPA environmental review process when hearings will assist substantially in forming environmental judgments and when hearings correspond with customary practice of the component.

C. Draft EISs. Copies of draft statements shall be provided to: Environmental Protection Agency; Council on Environmental Quality; Other Federal agencies having related special expertise or jurisdiction by law; Appropriate local and national organizations; including A-95 clearinghouses;

Appropriate State and local agencies, including those authorized to develop and enforce environmental standards; Indian tribes as appropriate; and Others requesting a copy of the draft statement.

There shall be a 45-day minimum comment period for draft statements after EPA publishes a notice of availability in the **Federal Register**.

If a draft statement is substantially revised, it must be recirculated as a draft statement. If revisions to a draft statement are minor, only the comments, responses and revisions need be recirculated.

D. Final EISs. Copies of final statements shall be provided in accordance with the above list and to all agencies, persons or organizations who submitted comments regarding the draft statement.

E. Record of Decision. When a POC reaches a decision on a proposed action after preparing an EIS, the POC shall prepare a public record of decision which includes:

- The decision;
- Alternatives considered;
- A discussion of factors which were involved in the decision;
- A discussion of steps to be taken to minimize potential environmental harm; and
- A public record of decision pursuant to 40 CFR 1502.2.

Subject: Reviewing External EISs

- 30-70-00 Reviewing External EISs
- 10 Jurisdiction by law
 - 20 Jurisdiction by Special Expertise
 - 30 Types of Comments

30-70-00 Reviewing external EISs

HHS has a responsibility under Section 102(2)(C) of the National Environmental Policy Act (NEPA) to review and comment on draft Environmental Impact Statements (EISs) developed by other Federal Departments. In accordance with CEQ regulations at 40 CFR 1503.2, HHS must comment on each EIS on issues for which it has "jurisdiction by law or special expertise."

30-70-10 Jurisdiction by Law

Jurisdiction by law reflects the Department's statutory responsibilities. An operating component reviewing a draft EIS should review each alternative action discussed in an EIS in terms of:

- A. Potential effects on the delivery or quality of health, social or welfare services.
- B. Potential effects associated with the manufacture, transportation, use and disposal of chemicals or other hazardous materials.
- C. Potential effects associated with the mining, milling, production, use, transportation, and disposal of radioactive materials.

D. Potential changes in plant or animal populations. This includes examination of the potential effects the proposed action may have on human health. Changes in natural predator populations may upset the ecological

balance to the extent that an increased incidence of morbidity or mortality will occur unless offsetting safeguards are instituted.

E. Potential changes in the physical environment that could affect human health or welfare (e.g., air pollution, change in land use). This shall also include an examination of the availability and quality of water, sewage and solid waste disposal facilities.

30-70-20 Jurisdiction by Special Expertise

Individuals reviewing EISs may comment, in addition, in areas beyond their immediate job responsibilities when they have special expertise which may be appropriate. For example, a veterinarian employed in a disease prevention program can comment on an EIS discussion about the effects of a forestry project on animal populations.

30-70-40 Types of Comments

A. A reviewer's comment on an external EIS can address one or more of the following:

1. That data are missing or inaccurate;
2. That the organization of the EIS precludes a valid review;
3. That the projections or descriptions of effects are not complete or are inaccurate;
4. That the reviewer does not concur with the projections (for states reasons);
5. That certain safeguards will lessen the extent of an effect and/or the magnitude of an impact;
6. State a preference for an action alternative (or no action); and
7. Object to an agency's preferred alternative (if one is identified in the draft EIS) and recommend adoption of new or existing alternatives. Such objections should be lodged on the basis of the direct or indirect effects on HHS programs and/or mission. (See B below concerning referral of such objections to CEQ.)

B. If a reviewing component objects to all or part of an agency's proposed action and, after consultation with the agency, is unable to resolve its differences, it shall determine if the proposed action meets the criteria for referral in § 1502.4 of the CEQ regulations. If the criteria are met, the component shall request the POC head to refer its objection to CEQ within 25 days of the date that the final EIS is made available to EPA in accordance with § 1504.3.

[FR Doc. 80-36112 Filed 11-18-80; 8:45 am]

BILLING CODE 4110-12-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Community Planning and Development

[Docket No. N-80-1043]

Community Development Block Grant Program

AGENCY: Department of Housing and Urban Development, Assistant Secretary for Community Planning and Development.

ACTION: Notice.

SUMMARY: HUD is issuing a revision to the Notice of the dates for submission of preapplications to HUD Area Offices for the Small Cities Program under the Community Development Block Grant Program for Fiscal Year 1981.

FOR FURTHER INFORMATION CONTACT:

Helen Duncan, Small Cities Division, Office of Community Planning and Development, Department of Housing and Urban Development, Washington, D.C. 20410, (202) 755-6322. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: By Notice published in the *Federal Register*, Thursday, October 2, 1980, the Department of Housing and Urban Development (HUD) established dates for submission of preapplications for Small Cities Program Grants to be accepted by HUD for Fiscal Year 1981, as provided by 24 CFR 570.420(h)(2).

Because of unforeseen circumstances, it is necessary to extend the preapplication filing deadline date for the Pittsburgh, Pennsylvania HUD Area Office jurisdiction only. Therefore, the filing submission dates for the Pittsburgh, Pennsylvania HUD Area Office jurisdiction only is revised as indicated below. The Pittsburgh Area Office has taken every reasonable step to notify all potential applicants of this change.

Preapplications for funding under the Single Purpose and Comprehensive Grant provisions of the Small Cities Program will be accepted only during the designated time period. Preapplications received in the Area Office after the deadline must be postmarked no later than the applicable deadline submission date. Any preapplications postmarked after that date are unacceptable and will be returned.

Affected applicants are hereby advised to submit their preapplications for Single Purpose Grants pursuant to 24 CFR 570.429, or their preapplications for Comprehensive Grants pursuant to 24 CFR 570.425, to the HUD Area Office in Pittsburgh, Pennsylvania.

Final Date for Submission

Region/State	No earlier than	No later than
III Pennsylvania (Pittsburgh area office jurisdiction), West Virginia.	Oct. 6, 1980.....	Nov. 3, 1980.

Issued at Washington, D.C., November 10, 1980.

Robert C. Embry, Jr.,

Assistant Secretary for Community Planning and Development.

[FR Doc. 80-36026 Filed 11-18-80; 8:45 am]

BILLING CODE 4210-01-M

Office of Environmental Quality

[Docket No. NI-33]

Intended Environmental Impact Statements

The Department of Housing and Urban Development gives notice that an Environmental Impact Statement (EIS) is intended to be prepared for each of the following projects under HUD programs as described in the appendices of the Notice: Sierra Vista Subdivision, Sierra Vista City, Cochise County, Arizona; Robinson Ranch Planned Community, Orange County, California; Victoria Planned Community, Rancho Cucamonga, California; Isla Mar Housing Project, Humacao, Puerto Rico; the New Town of Maumelle, Pulaski County, Arkansas; and Greenwood Valley Subdivision, City of Allen, Texas. This Notice is required by the Council on Environmental Quality under its rules (40 CFR 1500).

Interested individuals, governmental agencies, and private organizations are invited to submit information and comments concerning a particular project to the specific person or address indicated in the appropriate part of the appendices.

Particularly solicited is information on reports or other environmental studies planned or completed in the project area, issues and data which the EIS should consider, recommended mitigating measures and alternatives, and major issues associated with the proposed project. Federal agencies having jurisdiction by law, special expertise or other special interests should report their interests and indicate their readiness to aid the EIS effort as a "cooperating agency."

Issued at Washington, D.C., November 22, 1980.

Francis G. Haas,

Deputy Director, Office of Environmental Quality.

Appendix

EIS on Sierra Vista Subdivision, Sierra Vista City, Cochise County, Arizona

The Los Angeles Area Office of the U.S. Department of Housing and Urban Development intends to issue an Environmental Impact Statement (EIS) for a primarily residential land development project identified as Sierra Vista Subdivision and located in and adjacent to the Sierra Vista City in Cochise County, Arizona. The purpose of this notice is to solicit from all interested persons, local, State and Federal agencies, recommendations or comments regarding any issue that should be addressed in the proposed environmental impact statement.

HUD's participation in this land development project is through its Federal mortgage insurance program which is intended to facilitate homeownership and the construction and financing of housing. By insuring commercial lenders against loss, HUD encourages such lenders to invest capital in the home mortgage market.

Description. The Sierra Vista planned residential community project is a proposed land development of approximately 6,000 acres. This planned development project will provide for an approximate 10,000 new dwelling units in a mixture of housing densities and types. Community recreation facilities, functional open space and certain supporting commercial uses will form the remaining land uses within the project.

The project site is located in and adjacent to Sierra Vista City, Arizona and is generally bounded as follows: Fort Huachuca Military Reservation to the west, Snyder Boulevard and Foothills Drive to the north, parts of Sections 9, 17 and 19 of Township 22 south, Range 22 east of the Gila and Salt River Meridian to the east and Choctaw Drive to the south.

Among the possible environmental effects of this project are: conversion of approximately 6,000 acres of Sonoran desert lands to urban and suburban uses; introduction of approximately 25,000 new residents in approximately 10,000 new dwelling units adjacent to Sierra Vista City (population 25,000) and Port Huachuca Military Reservation over an estimated 7-10 year period; potential impact of a portion of a 100-year floodplain area; impact on natural desert vegetation and perhaps certain State protected vegetation; impact on

the local road system (due to added vehicles); impacts on natural drainage conditions; impacts on local community facilities and services; and potential impacts on archeological and cultural resources. Also, air-quality impacts may have significance to the Fort Huachuca Military Base communications mission as this geographic area is noted for its relatively free electromagnetic atmosphere.

Need. This office has determined that an environmental impact statement is necessary due to the size and scope of project activities proposed. This determination is made in response to Section 102(2)(c) of Public Law 91-190, The National Environmental Policy Act of 1969.

Alternatives perceived. The alternatives perceived available to the Department of Housing and Urban Development which will be given consideration are: (1) accept the project as submitted, (2) accept the project with modifications, or (3) reject the project.

Scoping. HUD will hold a pre-project "scoping" meeting in accordance with Section 1501.7 of the implementings of the 1969 National Environmental Policy Act. At this meeting, open to all persons, groups, organizations, Federal, State and local agencies, HUD wishes to identify all significant issues to be analyzed in the environmental impact statement. Time and place of this scoping meeting will be announced at a later date by notice in a local newspaper of general circulation and the mailing of a letter of invitation. The HUD mailing list covers most Federal, State and local public agencies and some private local organizations and groups.

Comments. Comments regarding this proposal should be sent within 21-days of publication of this Notice in the **Federal Register**, to: John J. Tuite, Area Manager, Attention: William Shortall, Environmental Protection Specialist, U.S. Department of Housing and Urban Development, 2500 Wilshire Boulevard, Los Angeles, California 90057, or call (213) 688-5899 (FTS) 8-798-5899.

Appendix

EIS on Robinson Ranch Planned Community, Orange County, California

The Los Angeles Area Office of the U.S. Department of Housing and Urban Development intends to issue an Environmental Impact Statement (EIS) for a primarily residential land development project identified as Robinson Ranch Planned Community and located in eastern Orange County. The purpose of this notice is to solicit from all interested persons, local State and Federal agencies, recommendations

or comments regarding any issue that should be addressed in the proposed environmental impact statement.

Purpose of Federal action. HUD's participation in this land development project is partly through its Federal mortgage insurance program which is intended to facilitate homeownership and the construction and financing of housing. By insuring commercial lenders against loss, HUD encourages such lenders to invest capital in the home mortgage market. In addition, under its Title X program, HUD may provide loan insurance to commercial lenders to facilitate financing of project public improvements such as streets, street lights, water lines and storm drainage improvements.

Project description. The Robinson Ranch Planned Community planned residential community project is a proposed land development of approximately 827 acres with a present consideration of conserving approximately 415 acres in open space. This planned development project will provide for an approximate 941 new dwelling units in a mixture of housing densities and types. Community recreation facilities, functional open space and certain supporting commercial uses will form the remaining land uses within the project.

The project site is located in eastern Orange County and is adjacent to the Cleveland National Forest. More specifically the project is in an unincorporated area of Orange County east of Trabuco Canyon Road and Plano Trabuco Road. The project site is a portion of sections 13 and 14 in Township 6 south, Range 7 west and a portion of Section 7 in Range R west, Township 6 south.

Potential impacts may include, impact of a portion of a 100-year floodplain resource, natural "foothill" vegetation and perhaps certain State protected wildlife. Impacts on the local road system (due to added vehicles), and natural drainage conditions are expected. Demand will be created for new local community facilities and services. Potential impacts on archeological and cultural resources may occur along with impacts on a part of a regional "watershed" resource. The entire property serves as a foraging habitat for several raptor species including the red-tailed hawk, marsh hawk, kestrels and white-tailed kite.

Need. This office has determined that an environmental impact statement is necessary due to the size and scope of the project and activities proposed as well as due to impacts on several natural resources. This determination is made in response to Section 102(2)(c) of

Pub. L. 91-190, The National Environmental Policy Act of 1969.

Alternatives perceived. The alternatives perceived available to the Department of Housing and Urban Development which will be given consideration are; (1) accept the project as submitted, (2) accept the project with modifications, or (3) reject the project.

Scoping meeting. HUD does anticipate holding a pre-project "scoping" meeting in accord with Section 1501.7 of the regulations for implementing the National Environmental Policy Act of 1969. At this meeting, which shall be open to all persons, groups, organizations, Federal, State and local agencies, HUD will wish to assure that all significant environmental issues will be covered by the proposed EIS. Time and place of this scoping meeting will be announced at a later date by notice of a letter of invitation. The HUD mailing list covers most Federal, State and local public agencies and many local private organizations and groups.

Comments. Comments or recommendations regarding this EIS proposal should be sent on or before December 9, 1980 to John J. Tuite, Area Manager, Attention: Peter Severynen, Environmental Protection Specialist, Department of Housing and Urban Development, Room 604 Los Angeles Area Office, 2500 Wilshire Boulevard, Los Angeles, California 90057, or call (213) 688-5899, (FTS) 8-798-5899.

EIS on Victoria Planned Community, Rancho Cucamonga, California

The HUD Los Angeles Area Office intends to prepare an Environmental Impact Statement on a proposed Title X project described herein and solicits information and comments for consideration in the EIS.

Description. The Victoria Planned Community development project is a proposed land development of approximately 2,150 acres. The project will provide for an approximate 9,000 dwelling units in a mixture of housing densities and types. Community recreation uses, open space, certain supporting convenience commercial uses and employment commercial uses are anticipated in the development. The project is located in the City of Rancho Cucamonga, San Bernardino County, California. The boundaries of the project are generally as follows; Dear Creek on the east; Highland Park on the north, Etiwanda Avenue and Freeway 1-15 on the east, Baseline Road on the south. The proposed EIS will also address impacts associated with a Regional shopping center proposed for a location immediately south and adjacent to the project.

An "early start" segment may be considered for HUD processing prior to completion of the EIS. This "early start" segment is located in the southeast corner of the project near Etiwanda and Baseline Roads. The number of dwelling units shall not exceed two-hundred. A special Environmental Clearance action shall be completed by HUD prior to any approval.

HUD's participation in this land development project is partly through the Federal mortgage insurance program which is intended to facilitate homeownership and the construction and financing of housing. By insuring commercial lenders against loss, HUD encourages such lenders to invest capital in the home mortgage market. In addition, under its Title X program, HUD may provide loan insurance to commercial lenders to facilitate financing of project public improvements such as streets, water lines, sewer lines and storm drainage improvements.

Need. An EIS is proposed due to HUD threshold requirements in accordance with housing program regulations and certain perceived environmental impacts such as the following: impact on the 100-year base flood hazard area, prime agricultural land, water resources, energy resources, transportation, historic and cultural resources and community services and facilities.

This announcement and the EIS preparation and distribution process will form HUD's primary means of inviting public participation in the "eight-step" review process required by the implementing regulations of Executive Order 11988 and the required decision making process HUD will carry-out for this special Federal Environmental concern. This announcement is intended to satisfy Steps 1 and 2 of the "eight-step" review process.

Alternatives perceived. At this time the HUD alternatives include: no project; accept project as proposed and/or accept project with conditions or modification of the project or modification to the existing environment.

Scoping. HUD will hold a pre-project "scoping" meeting in accordance with Section 1501.7 of the implementing regulations of the 1969 National Environmental Policy Act. This meeting will be open to all persons, groups, organizations, Federal, State and local public agencies and some private local organizations and groups.

Comments. Comments regarding this proposal should be sent on or before December 9, 1980 to John J. Tuite, Area Manager, Attention: William Shortall,

Environmental Protection Specialist, U.S. Department of Housing and Urban Development, 2500 Wilshire Boulevard, Los Angeles, California 90057, or call (213) 688-5899 (FTS) 8-798-5899.

EIS on Isla Mar Housing Project, Humacao, Puerto Rico

The Department of Housing and Urban Development, Region II, Caribbean Area Office, intends to prepare an Environmental Impact Statement (EIS) on the project described below and solicits comments and information for consideration in the EIS.

Description. The project consists of 467 detached residential units to be constructed on 53.19 acres. Approximately 5.05 acres are to be allocated to community facilities.

The project is located in Humacao, Puerto Rico, Rio Abajo Ward, State Road No. 3, Km. 78.2. Project may be assisted under the following Federal Programs: 203(b), 235, and Section 8.

Need. It has been determined to prepare an Environmental Impact Statement due to the size of the development.

Isla Mar is the latest subdivision in this development. This development will total 963 units at the termination of Isla Mar. Subdivisions in this development constructed prior to Isla Mar were cleared through an Environmental Assessment.

Alternatives. Alternatives to be considered are the no project or changes to size and design.

Scoping. A scoping meeting with the participation of cooperating government agencies and general public will be held.

Comments. All interested parties comments should address the environmental impacts of the proposed project and all such comments will be considered when preparing the Draft and shall become part of the project's environmental file. Comments regarding this proposal should be sent on or before December 9, 1980. Jose R. Febres-Silva, Area Manager, U.S. Department of Housing and Urban Development, U.S. Courthouse and Federal Building, Carlos Cardon Avenue, Room 428, Hato Rey, Puerto Rico 00918.

EIS on The New Town Of Maumelle, Pulaski County, Arkansas

The Environmental Assessment Team in Atlanta, Georgia intends to prepare, for the New Communities Development Corporation, an EIS on the project described below. We are soliciting information and comment for consideration in the EIS.

Description. Maumelle is a 5,300 acre New Town sponsored by Maumelle Land Development, Inc., in Pulaski

County, northwest of Little Rock, Arkansas. The project includes the following land uses: open space (mainly along the Arkansas River), low, medium and high density residential, industrial, commercial and institutional development. Several lakes, a golf course, a riverside marina, school, church and a community center will be located on the site. Approximately 50,000-60,000 people are projected to reside in Maumelle, which was formerly used as an Army ordinance depot. The site is located adjacent to the north bank of the Arkansas River, southwest of Interstate 40, about 10 miles from downtown Little Rock. As originally planned, the development period will extend to 1991.

HUD's participation is through the New Communities development Corporation (NCDC), which guaranteed the initial construction financing for the proposed New Town. Additionally, HUD will make available FHA mortgage insurance to qualifying buyers within the development. The enabling legislation for the NCDC requires that continued participation be partially based on the findings of updated EIS's.

Need. An update of the original EIS prepared in 1972 is required. The new statement will assess land use changes since 1972 and will evaluate the proposal with respect to current environmental legislation.

Alternatives. At this time, the HUD alternatives are to continue participation as per previous commitments or to continue participation with development restrictions.

Scoping. HUD will hold a "scoping" meeting in accordance with Section 1501.7 of the regulations for implementing the National Environmental Policy Act. At this meeting, open to all individual persons, groups, Federal, State, and local agencies, HUD wishes to identify all significant issues to be addressed in the environmental impact statement.

Comments. Comments should be forwarded on or before December 9, 1980 to Dr. Richard Bailey, Department of Housing and Urban Development, RIEAT-Room 834, 75 Spring Street, SW, Atlanta, Georgia 30303 or call (404) 221-5151 or (FTS) 242-5151.

EIS on Greenwood Valley Subdivision, City of Allen, Texas

The Dallas Area Office of the Department of Housing and Urban Development intends to prepare an Environmental Impact Statement on a proposed subdivision which will be known as Greenwood Valley. The proposed subdivision is located in the

general vicinity of U.S. Highway 75 on Farm Road 2170. The site is one and one-half miles east of the Central Business District of the City of Allen, Collin County, Texas. The purpose of this Notice is to solicit comments and recommendations from all interested persons, local, state and Federal agencies regarding the issues to be addressed in the Environmental Impact Statement.

Description. The Fox and Jacobs, Incorporated, P.O. Box 934, Carrollton, Texas, proposes to develop a 196 acre tract into 704 single family lots. The developer has requested that the Department accept the Greenwood Valley Subdivision for mortgage insurance under Section 203(b) of Title II of the National Housing Act of 1934. At full development, it is anticipated the subdivision will accommodate approximately 1,760 persons. The developer has requested an early-start on 196 lots of the proposed Greenwood Valley Subdivision.

Need: Due to the size and scope of the proposed development, the Dallas Area Office has determined that an Environmental Impact Statement will be prepared pursuant to Pub. L. 91-190, the National Environmental Policy Act of 1969.

Alternatives. The alternatives available to the Department are (1) accept the project as submitted, (2) accept the project with modifications, or (3) reject the project.

Scoping. No formal scoping meeting is anticipated for this project. It is the intent of this Notice to be considered a part of the process used for scoping the environmental impact statement. Any responses to this Notice will be used to help (1) determine significant environmental issues, and (2) identify data which the EIS should address.

Comments. Comments should be sent on or before December 9, 1980 to I. J. Ramsbottom, Environmental Officer, Dallas Area Office, Department of Housing and Urban Development, 2001 Bryan Tower, Dallas, Texas 75201. The commercial telephone number of this office is (214) 767-8347 and the FTS number is 729-8347.

[FR Doc. 80-36028 Filed 11-18-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Grand Junction District; Grazing Advisory Board Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Grand Junction District Grazing

Advisory Board will be held on Wednesday, December 10, 1980.

The meeting will begin at 9 a.m. in the third floor conference room of the Bureau of Land Management Office at 764 Horizon Drive, Grand Junction, Colorado.

The agenda for the meeting will include: (1) minutes of the previous meeting, (2) status report on the allotment management plan (AMP) implementation program, (3) discussion of the Sunnyside AMP, (4) discussion of the Light Hill prescribed burn, (5) status report on current range improvement projects, (6) proposed range improvement projects for future funding and (7) the arrangements for the next meeting.

The meeting is open to the public. Interested persons may make oral statements to the board between 3:00 and 3:30 p.m., or file written statements for the board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 764 Horizon Drive, Grand Junction, Colorado 81501, by December 5, 1980. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the board meeting will be maintained in the District Office and be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Further information on the meeting may be obtained at the above address or by calling (303) 243-6552.

Lee Carie,

Acting District Manager.

[FR Doc. 80-34887 Filed 11-18-80; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

[DES-80-70]

General Management Plan, Santa Monica Mountains National Recreation Area, Calif.; Availability of Draft Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the National Park Service, U.S. Department of the Interior, has prepared a draft environmental impact statement for the proposed General Management Plan for Santa Monica Mountains National Recreation Area. The proposal involves a draft plan that would provide the general direction for management and a conceptual framework for visitor use.

The proposed action presents goals and objectives for management; a land

classification system that indicates management emphasis for all lands within the boundary; a land acquisition plan; concepts for management of resources and cooperation with agencies and landowners; programs for managing natural, scenic, and cultural resources; a related series of possible actions for activity sites, trails and camps, transportation, scenic roads, and management facilities; and strategies for future planning.

A present action alternative was considered which would continue land acquisition, cooperative planning, and visitor and resources management programs, but would not provide for development of structured recreational use. A no action alternative was also considered, which would preclude any additional National Park Service involvement in the area.

A limited number of copies are available upon request to:

Superintendent, Santa Monica Mountains National Recreation Area, 23018 Ventura Boulevard, Woodland Hills, California 91364 (Telephone: (213) 888-3772).

Public reading copies will be available for review at the following locations:

Office of Public Affairs, National Park Service, Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240 (Telephone: (202) 343-6843).

Western Regional Office, National Park Service, 450 Golden Gate Avenue, San Francisco, California 94102 (Telephone: (415) 556-4122).

Los Angeles Field Office, National Park Service, Room 2043, New Federal Building, 300 North Los Angeles Street, Los Angeles, California 90012 (Telephone: (213) 688-2852).

Santa Monica Mountains National Recreation Area, 23018 Ventura Boulevard, Woodland Hills, California 91364 (Telephone: (213) 883-3772).

Comments on the Draft Environmental Impact Statement are invited from all interested parties and should be forwarded to the following official no later than February 28, 1981.

Ms. Nancy Fries, Project Manager, Santa Monica Mountains National Recreation Area, 2318 Ventura Boulevard, Woodland Hills, California 91364 (Telephone: (213) 888-8221).

Dated: October 15, 1980

John H. Davis,

Acting Regional Director.

[FR Doc. 80-36011 Filed 11-18-80; 8:45 am]

BILLING CODE 4310-70-M

Office of Surface Mining Reclamation and Enforcement

[Federal Lease No. C-078049]

Availability for Public Review of Major Modification of a Coal Mining and Reclamation Plan

AGENCY: Office of Surface Mine Reclamation and Enforcement, Department of the Interior.

ACTION: Availability for public review of proposed major modification to a coal mining and reclamation plan.

SUMMARY: Pursuant to § 211.5 of title 30 and § 1500.2 of Title 40, Code of Federal Regulations, notice is hereby given that the Office of Surface Mining (OSM) has received an application from the GEX Colorado Incorporated to construct a permanent waste rock disposal pile. A brief description of the location follows:

Location of Lands to be Affected by Modification

Applicant: GEX Colorado Incorporated
Mine Name: Cameo #3 Underground Mine
State: Colorado
County: Mesa
Section, Township, Range: Southeast ¼ of Section 28, Range 98 West, Township 10 South
Office of Surface Mining, Identification No. CO-0020

The proposed modification to the mining plan involves disturbance of 23.8 acres associated with the proposed waste disposal pile. The existing permit area is 127 acres. The total acreage of the permit will not be increased by this modification. The proposed modification involves construction of a 1.5 million cubic yard coal processing waste & waste rock pile. The pile has a projected life of 24 months.

The mining and reclamation plan has been determined to be sufficiently complete to issue this notice to inform the public of the availability of the plan for review. The OSM will prepare a technical analysis (TA) to determine whether the proposed plan meets the requirements of the Surface Mine Control and Reclamation Act (SMCRA) and an environmental assessment (EA) which will evaluate the impacts of actions the Department of the Interior may take on the plan. During the analytical review it is possible that OSM will request additional information from the company. Any further information would be available for public review.

No action on the modified plan will be taken by the Department for a period of 30 days after publication on this Notice of Availability in the **Federal Register**.

Prior to making a final decision on this modification under the interim program, the OSM will issue a notice of Pending Decision pursuant to § 211.5(c)(2) of Title 30 code of Federal Regulations.

The plan is available for public review at the office of Surface Mining, Region V, Brooks Towers, 1020 15th Street, Denver, CO 80202. Comments on the proposed major modification may be addressed to the Regional Director, OSM at the above address.

FOR FURTHER INFORMATION CONTACT: Keith G. Kirk or John Hardaway at the above address.

Donald A. Crane,
Regional Director.

[FR Doc. 80-36012 11-18-80; 8:45 am]

BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date of the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F-73

The following applications were filed in Region 2. Send protests to: ICC, Federal Reserve Bank Bldg., 101 N. 7th St., Room 620, Philadelphia, PA 19106.

MC 152028 (Sub-II-1TA), filed November 6, 1980. Applicant: LEROY ALLEN TUCKING CO., Rt. 1, Box 288, Hopewell, VA 23860. Representative: Leroy Allen (same as applicant). Contract, irregular: *Barrels and tote bins of harmless surfactant chemicals*, from Norfolk, VA to Hopewell, VA; from Hopewell, VA to various locations in VA, NC, SC, GA, TN, MD and PA; from Hopewell, VA to Fairfield, NJ, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Goldschmidt Chemical Corp., 920 Randolph Rd., Hopewell, VA 23860.

MC 151585 (Sub-II-2TA), filed November 6, 1980. Applicant: BEST TRUCKING CO., INC., 2913 Halstead Rd., Richmond, VA 23235. Representative: Carroll B. Jackson, 1810 Vincennes Road, Richmond, VA 23229. Contract, irregular: (1) *Aluminum articles, cabinets, containers, foil, paper and paper articles, plastic articles, ribbons, bows, rosettes, tape and (2) materials, supplies and equipment used in the manufacture, distribution and sales of commodities in (1) above*, between points in DE, MD, NC, NJ, PA, SC, TN, VA, WV and DC for 270 days. Supporting shipper: United Paper Company, P.O. Box 26846, Richmond, VA 23261.

MC 115413 (Sub-II-9TA), filed November 6, 1980. Applicant: BLESSFIELD TRUCK LINES, INC., P.O. Box 245, Archbold, OH 43502. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. *New furniture, furniture parts, and materials, equipment and supplies used in the manufacture of new furniture (except commodities in bulk)*, between Swanton, OH, on the one hand, and, on the other, points in the U.S. in and east of MN, IA, MO, AR, and LA for 270 days. Supporting shipper: The Pilliod Cabinet Co., Woodlawn Avenue, Swanton, OH 43358.

MC 14252 (Sub-II-8TA), filed November 6, 1980. Applicant: COMMERCIAL LOVELACE MOTOR FREIGHT, INC., 3400 Refugee Rd., Columbus, OH 43227. Representative: William C. Buckham (same as applicant). Common, regular: *General commodities (except household goods as defined by the Commission, and*

classes A & B explosives), serving all points in Woodford County, KY as off route points in connection with carriers presently authorized regular route operations, for 270 days. Applicant intends to tack and interline. An underlying ETA seeks 120 days authority. Supporting shipper: Rand McNally Co. 8255 Central Park Ave., Skokie, IL 60076.

MC 147932 (Sub-II-2TA), filed November 6, 1980. Applicant: COWEN TRUCK LINE, INC., Rt. No. 2, Perrysville, OH 44864. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43215. *Such commodities as are dealt in or used by manufacturers of passenger buses, except finished buses*, between Ashland & Delaware Counties, OH, on the one hand, and, on the other, pts. in the US, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Grumman Flexible, 970 Pittsburgh Dr., Delaware, OH 43015.

MC 152313 (Sub-II-1TA), filed November 5, 1980. Applicant: DON'S TRUCKING, INC., 1801 Coxendale Rd., Chester, VA 23831. Representative: Michael F. Morrone, 1150 17th St., N.W., Suite 1000, Washington, D.C. 20036. Contract, Irregular: *Ocean containers with prior movement by water of automotive parts for assembly of vehicles* from Richmond, VA to New Stanton, PA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Volkswagen of America, INC., 27621 Parkview Blvd., Warren, MI 48092.

MC 147681 (Sub-II-14TA), filed October 31, 1980. Applicant: HOYA EXPRESS, INC., Rt. 18, West Middlesex, PA 16159. Representative: Michael P. Pitterich, P.O. Box 543, West Middlesex, PA 16159. *Plastic articles and/or cereal, NOI, and materials and supplies used in the production of the above named commodities*, between MA, CT, RI, NY, NJ, PA, OH, TN, MI, IN, MD, VA, KY, WV, DE and IL, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Van Brode Milling Co., Inc., 20 Cameron St., Clinton, MA 01510.

MC 144188 (Sub-II-8TA), filed November 5, 1980. Applicant: P. L. LAWTON, INC., P.O. Box 325, Berwick, PA 18603. Representative: J. Bruce Walter, P.O. Box 1146, Harrisburg, PA 17108. (1) *Pet foods; and (2) materials, equipment and supplies used in the production, storage and distribution of the commodities described in (1) above*, between points in Columbia and Luzerne Counties, PA, on the one hand, and, on the other, points in the US for 270 days. Supporting shipper: Champion

Valley Farms, Inc., 6670 Low Street, Bloomsburg, PA 17815.

Doc. 140889 (Sub-II-4TA), filed November 5, 1980. Applicant: FIVE STAR TRUCKING, INC., 4720 Biedler Rd., Willoughby, OH 44094. Representative: Ignatius B. Trombetta, 1220 Williamson Bldg., Cleveland, OH 44114. Type of service: Contract, irregular; (1) *cleaning compounds, chemicals, solvents, cleaners and degreasers, except in bulk, and (2) supplies, equipment, and materials used in the manufacture of the above; (1) between points in Cuyahoga County, OH, Los Angeles County, CA, and Middlesex County, NJ, on the one hand, and points in OH, CA, OR, WA, FL, GA, IL, and NJ, on the other hand; and (2) from Cook County, IL, Hartford County, CT, and Philadelphia County, PA, to the facilities of State Chemical Manufacturing Co., Inc. location in Chuyahoga County, OH; under a continuing contract(s) with State Chemical Manufacturing Co., Inc. for 270 days. An underlying ETA seeks 90 days authority. Supporting Shipper: State Chemical Manufacturing Co., Inc., 3100 Hamilton Ave., Cleveland, OH 44114.*

MC 127579 (Sub-II-8TA), filed November 5, 1980. Applicant: HAULMARK TRANSFER, INC., 1100 N. Macon St., Baltimore, MD 21205. Representative: Glenn M. Heagerty (same as applicant). *Printed Matter and materials and supplies used in the manufacture or distribution of printed matter (except commodities in bulk)* between the facilities of R. R. Donnelley and Sons Co., Crawfordsville, IN, on the one hand, and, on the other, points in the states of CT, MA, RI, NY, PA, NJ, DE, MD, VA, WV, and DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): R. R. Donnelley & Sons Co., 1009 Sloan Street, Crawfordsville, IN 47933.

MC 145930 (Sub-II-3TA), filed November 5, 1980. Applicant: WILLIAM E. MOROG, d.b.a. JONICK & CO., 2815 E. Liberty Ave., Vermilion, OH 44089. Representative: Michael M. Briley, P.O. Box 2088, Toledo, OH 43603. (1) *Metal abrasives* from Cleveland, OH to points in CA, CO, CT, FL, GA, IL, IN, KY, MA, MI, MO, MN, NC, NJ, NV, NY, OK, PA, SC, TN, TX, WA, and WI; and (2) *return of materials, equipment and supplies used in the manufacture and distribution of metal abrasives*, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Metal Blast, Inc., 871 E. 67th St., Cleveland, OH 44103.

MC 143394 (Sub-II-17TA), filed November 3, 1980. Applicant: GENIE TRUCKING LINE, INC., 70 Carlisle

Springs Rd., P.O. Box 840, Carlisle, PA 17013. Representative: G. Kenneth Bishop (same as applicant). Contract: Irregular: *General Commodities (except those of unusual value, Class A & B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment)*. Between Chicago, IL and points in the U.S. under continuing contract(s) with International Nu-Way Shippers, Inc., Chicago, IL for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: International Nu-Way Shippers, Inc., 3333 South Iron Street, Chicago, IL 60608.

MC 124821 (Sub-II-25TA), filed November 3, 1980. Applicant: GILCHRIST TRUCKING, INC., 105 North Keyser Ave., Old Forge, PA 18518. Representative: John W. Frame, Box 626, 2207 Old Gettysburg Rd., Camp Hill, PA 17011. *General commodities (except household goods as defined by the Commission and classes A and B explosives)*, between Chicago, IL, on the one hand, and, on the other, Hazleton and North East, PA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Continental White Cap Company, Division of Continental Group, Inc., 1819 Major Ave., Chicago, IL 60639.

MC 107006 (Sub-II-3TA), filed November 3, 1980. Applicant: THOMAS KAPPEL, INC., P.O. Box 1408, Springfield, OH 45501. Representative: John L. Alden, 1396 W. Fifth Ave., Columbus, OH 43212. *Paper, and paper products, and materials, equipment and supplies, used in the manufacture of paper and paper products, except commodities in bulk*, between Urbana and Dayton, OH, on the one hand, and, on the other, points in the U.S. except AK and HI. Supporting shipper: Howard Paper Mills, Inc., W. Church St., Urbana, OH 43078.

MC 142168 (Sub-II-1TA), filed November 7, 1980. Applicant: CARL'S BUTTON AND STITCH, INC., Route 613, Box 424, Payne, OH 45880. Representative: Michael M. Briley, P.O. Box 2088, Toledo, OH 43603. *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment)* between the facilities of Stanadyne, Inc., at or near Chicago, IL; Garrett, IN; and Elyria, OH, on the one hand, and, on the other, Los Angeles and San Francisco, CA; Las Vegas, NV; Portland, OR (and points in their respective commercial zones), for 270 days. An underlying ETA seeks up to 120 days authority.

Supporting shipper: Stanadyne, Inc., 301 N. Taylor Rd., Garrett, IN 48738.

MC 141878 (Sub-II-4TA), filed November 7, 1980. Applicant: DIRECT COURIER, INC., 800 N. Taylor St., Arlington, VA 22003. Representative: Gerald K. Gimmell, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760. *Chemicals, pharmaceuticals, and materials, supplies and equipment used in the manufacture, distribution, and sale of chemicals and pharmaceuticals* between the facilities of Merck & Co., Inc., at or near Rahway, NJ, and Riverside, PA for 270 days. Underlying ETA seeks 120 days authority. Supporting shipper: Merck & Co., Inc., P.O. Box 2000, Rahway, NJ 07065.

MC 107012 (Sub-II-105TA), filed November 6, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Bruce W. Boyarko (same as applicant). *Hospital supplies*, from the facilities of Plasta-Medic, Division of Hadley Industries, Inc. at Carson, CA to points in CO, IL, IA, KS, MO and NE for 270 days. Supporting shipper: Plasta-Medic, Division of Hadley Industries, Inc., 1165 E. 230th St., Carson, CA 90745.

Note.—Common control may be involved.

MC 87103 (Sub-II-1TA), filed November 6, 1980. Applicant: MILLER TRANSFER AND RIGGING CO., P.O. Box 322, Cuyahoga Falls, OH 44222. Representative: Edward P. Bocko, P.O. Box 496, Mineral Ridge, OH 44440. (1) *Air conditioning equipment, furnaces and parts thereof, and (2) equipment, materials and supplies used or useful in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk)* between Warren, Davidson and Rutherford Counties, TN on the one hand, and, on the other, points in and north of DE, MD and PA for 270 days. Supporting shipper: Carrier Air Conditioning Group, Divisions of Carrier Corp., P.O. Box 4808, Carrier Parkway, Syracuse, NY 13221.

MC 146015 (Sub-II-13TA), filed November 7, 1980. Applicant: MUMMA FREIGHT LINES, INC., 6495 Carlisle Pike, Mechanicsburg, PA 17055. Representative: Barry Weintraub, Suite 800, 8133 Leesburg Pike, Vienna, VA 22180. Contract: Irregular: *Pet Food products*, from the facilities of Perk Foods Co., at Lower Allen Township, Cumberland County, PA, to points in NY for 270 days under continuing contract(s) with Perk Foods Co., Div. of C.H.B. Foods, Inc. An underlying ETA seeks 120 days authority. Supporting shipper(s): Perk Foods Co., Div. of C.H.B. Foods, Inc., 2410 Old Gettysburg Rd., Camp Hill, PA 17011.

MC 150339 (Sub-2-17TA), filed November 7, 1980. Applicant: PIONEER TRANSPORTATION SYSTEMS, INC., 151 Easton Blvd., Preston, MD 21655. Representative: J. Cody Quinton, Jr. (same as applicant). Contract: Irregular: *General commodities, except household goods as defined by the Commission and Classes A & B explosives*, between Henderson, NC, on the one hand, and, on the other, points in the US (except AK and HI), under continuing contract(s) with Rose's Stores, Inc. for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Rose's Stores, Inc., P.O. Drawer 947, Henderson, NC 27536.

MC 152580 (Sub-II-1TA), filed November 7, 1980. Applicant: H. R. PHILLIPS, INC., Cedar Beach Rd., P.O.B. 279, Milford, DE 19961. Representative: Chester A. Zyblutt, 366 Executive Bldg., 1030 15th St., NW., Washington, DC 20005. *Fiber and materials and supplies used in the processing and distribution of fibers (except commodities in bulk)*, between Milford, DE and Clover and S. Boston, VA, on the one hand, and, on the other, points in the MS, AL, GA, SC, NC, TN, LA, DE, MD, NJ, NY and PA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Steiner & Co., Inc., P.O. Box 354, Milford, DE 19963.

MC 107012 (Sub-II-104TA), filed November 6, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). (1) *carpet*, from Libertyville, IL to points in AL, GA, MI, and NC and (2) *synthetic fibers*, from points in GA and SC to Libertyville, IL for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Ozite, 1755 Butterfield Rd., Libertyville, IL 60048.

Note.—Common control may be involved.

The following applications were filed in Region 3. Send protests to ICC, Regional Authority Center, P.O. Box 7600, Atlanta, GA 30357.

MC 146891 (Sub-3-1TA), filed November 4, 1980. Applicant: A & G CARTAGE, INC., 4807 Millbrooke Road, Albany, GA 31701. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. Contract: Irregular: *Agricultural chemicals, products and supplies used in the manufacture, sale and distribution thereof*, between points in the US. Supporting shipper: Helena Chemical Company, Suite 3200, 5100 Poplar Avenue, Memphis, TN 38137.

MC 118610 (Sub-3-1TA), filed November 3, 1980. Applicant: GEORGE PARR TRUCKING SERVICE, INC., P.O. Box 1308, Owensboro, KY 42301. Representative: George M. Catlett, Suite 708, McClure Building, Frankfort, KY 40601. *Commodities which because of size or weight require the use of special equipment*, between points in the state of WA on the one hand, and, on the other, points in the US (except AK & HI). Supporting shipper: State of WA, governor's Office, Legislative Building, Olympia, WA 98504 and Harry Claterbos Co., Rt. 1, Box 984, Astoria, OR 97103.

MC 152288 (Sub-3-1TA), filed November 3, 1980. Applicant: NEAL TRANSPORT, INC., 4481 Pineview Drive, P.O. Box 21, Powder Springs, GA 30073. Representative: Philip L. Martin, Attorney At Law, 2220 Parklake Drive, N.E., Suite 427, Atlanta, GA 30345. Contract Carrier: Irregular routes: *Insulated copper wire and raw copper wire in boxes and reels, copper rods, wire processing machinery and empty reels* between GA, AL, AR, AZ, CA, CO, CT, DE, DC, FL, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NM, NV, NC, OH, OK, OR, PA, RI, SC, TN, TX, UT, VA, WA, WV, WI. Supporting shipper: Larcon Wire Corp. (Larabee Wire Insulated Products), 2148 American Industrial Way, Chamblee, GA 30341.

MC 148822 (Sub-3-6TA), filed November 3, 1980. Applicant: SUPER TRUCKERS, INC., 3900 Commerce Ave., Fairfield, AL 35064. Representative: Gerald D. Colvin, Jr., 603 Frank Nelson Bldg., Birmingham, AL 35203. *Contract, irregular; Primary metal products, fabricated metal products, machinery, plastic pipe and fittings and materials, equipment and supplies used in the manufacture and distribution thereof* between points in the U.S. Supporting shipper: Consolidated Pipe & Supply Co., Inc., 1800 3rd Street West, Birmingham, AL 35201.

MC 111485 (Sub-3-4TA), filed November 3, 1980. Applicant: PASCHALL TRUCK LINES, INC., Route 4, Murray, KY 42071. Representative: Robert H. Kinker, 314 West Main Street, P.O. Box 464, Frankfort, KY 40602. *General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment)*, between points in Ballard, Calloway, Carlisle, Fulton, Graves, Hickman, Marshall, and McCracken Counties, KY, on the one hand, and, on the other, points in the U.S. (except AL and HI) restricted to traffic originating at or

destined to points in the above named KY counties. Supporting shippers: There are eight statements in support of this application which may be examined at the I.C.C. Regional Office, Atlanta, GA.

MC 121598 (Sub-3-3TA), filed November 3, 1980. Applicant: SHELBYVILLE EXPRESS, INC., Old Railroad Ave., Shelbyville, TN 37160. Representative: James G. Caldwell (same address as applicant). *Common carrier, regular General commodities (with usual exceptions)* between Greenville, MS and Waskom, TX (a) over U.S. Hwy 82 to its junction with U.S. Hwy 165, thence over U.S. Hwy 165 to its junction with Interstate Hwy 20, thence over Interstate Hwy 20 to Waskom, TX and return, serving all intermediate points, (b) over U.S. Hwy 61 to its junction with Interstate Hwy 20, thence over Interstate Hwy 20 to Waskom, TX and return, serving all intermediate points and serving Sterlington, LA as an off-route point in connection with routes (a) and (b) above. There are 7 statements in support of this application, which may be examined at the I.C.C. Regional Office, Atlanta, GA.

Note.—Applicant intends to tack with existing authority and to interline at Greenville, MS, Monroe, LA, and Shreveport, LA.

MC 105457 (Sub-3-3TA), filed November 4, 1980. Applicant: THURSTON MOTOR LINES, INC., 600 Johnston Road, Charlotte, NC 28206. Representative: John V. Luckadoo (same as above). *Common carrier: regular: General Commodities, except household goods as defined by the Commission*, (1) Between Tupelo, MS and Jackson, MS, over US Hwy Alt. 45 to Junction US Hwy 82, then over US Hwy 82 to Junction MS Hwy 12, then over MS Hwy 12 to Junction US Hwy 51, then over US Hwy 51 to Jackson, and return over the same route, serving no intermediate points (2) Between Memphis, TN and Jackson, MS over Interstate Hwy 55, serving no intermediate points (3) Between Birmingham, AL and Jackson, MS, over Interstate Hwy 20, serving no intermediate points (4) Serving points in Copiah, Hinds, Lincoln, Madison, Rankin, Warren and Yazoo Counties, MS in connection with routes (1) through (3) above. Applicant intends to tack with existing authority and interchange with connecting carriers at Jackson, MS; Tupelo, MS; Memphis, TN; and Birmingham, AL. Supporting shippers: There are 96 supporting shippers whose statements can be viewed at the Regional Authority Center, Atlanta, GA.

MC 142835 (Sub-3-7TA), filed November 4, 1980. Applicant: CARSON

MOTOR LINES, INC., P.O. Box 337, Auburndale, FL 33823. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215. *Drugs, medicine and toilet articles*, from Lynchburg, VA to points in the U.S. (except AK and HI). Supporting shipper: C. B. Fleet Co., Inc., P.O. Box 11349, Lynchburg, VA 24506.

MC 151839 (Sub-3-1TA), filed November 4, 1980. Applicant: P.B.M. COACHES, INC. 1010 6th Ave. South, Lake Worth, Florida 33460. Representative: G. R. Burress (same address as applicant). *Passengers and baggage in charter operations*, between Palm Beach County, FL, and points of interest in AL, GA, KY, LA, MS, NC, NY, SC, TN, VA, WV. Supporting shippers: Tippet Travel, 1772 South Congress Ave., West Palm Beach, FL 33406. Allure Travel, 14466 South Military Trail, Delray Beach, FL 33444. International Travel, 300 10th Street, Suite 2, Lake Park, FL 33402.

MC 149575 (Sub-3-1TA), filed November 4, 1980. Applicant: ADAMS CARTAGE COMPANY, INC., 4440 Mead Rd., P.O. Box 3043, Macon, GA 31205. Representative: Archie B. Culbreth, John P. Tucker, Jr., Suite 202, 2200 Century Parkway, Atlanta, GA 30345. (1) *Roofing and roofing products*, and (2) *Materials, equipment and supplies used in the manufacture, distribution and installation of roofing and roofing products*, from the facilities of TAMKO Asphalt Products, Inc., at or near Tuscaloosa, AL to points in FL and GA. Supporting shipper: TAMKO Asphalt Products, Inc., 220 West Fourth St., Joplin, MO 64801.

MC 151592 (Sub-3-4TA), filed November 3, 1980. Applicant: D & L TRUCKING SERVICES, INC., 2080 South 9th Street, Louisville, KY 40208. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202. *Contract carrier, irregular routes: (1) Charcoal briquets, hickory chips, and fireplace logs*, from Burnside and Louisville, KY to Cleveland, Toledo, and Columbus, OH and to points in IL, IN, and WI, and (2) *coal*, from Reading, Treverton, and Gilberton, PA and Spadra and Centerville, AR to Belle, MO, Burnside, KY, and Parsons, WV, under contract with The Kingsford Company, of Louisville, KY. Supporting shipper: Kingsford Company, 1700 Commonwealth Building, Louisville, KY 40201.

MC 109638 (Sub-3-2TA), filed November 3, 1980. Applicant: EVERETT TRUCK LINE, INC., P.O. Box 1927, Washington, NC 27889. Representative: Cecil W. Bradley (same address as applicant). *Fabricated Metal Products—except Ordnance—and materials used*

in their manufacture or distribution between points in the contiguous 48 states—restricted to traffic originating at or destined to the facilities of Hamilton Beach Division of Scovill. Supporting shipper: Hamilton Beach Division, Scovill, P.O. Box 1158, Washington, NC 27889.

MC 135760 (Sub-3-1TA), filed November 4, 1980. Applicant: COAST REFRIGERATED TRUCKING CO., INC., P.O. Box 188, Holly Ridge, NC 28445. Representative: Herbert Alan Dubin, Baskin and Sears, 818 Connecticut Ave., NW., Washington, DC 20006. *Foodstuffs* from the facilities of Globe Products Company, Inc. at or near Clifton, NJ to points in FL, GA, IL, IN, MI, NC, OH, and SC, under continuing contracts with Globe Products Company, Inc. Supporting shipper: Globe Products Company, Inc., P.O. Box 1927, Clifton, NJ 07015.

MC 109708 (Sub-3-13TA), filed November 4, 1980. Applicant: INDIAN RIVER TRANSPORT CO., P.O. Box AG, Dundee, FL 33838. Representative: John J. Harned (same address as above). *Grape Concentrate* in Bulk in Tank Vehicles, from Madero, CA, to MA, MD, OH, PA, NY. Supporting shipper: Food Brokers International, 5442 Jillson St., Los Angeles, California 90040.

MC 144399 (Sub-3-1TA), filed November 4, 1980. Applicant: CRAWFORD TRUCKING, INC., P.O. Box 532, Montrose, AL 36559. Representative: George M. Boles, 727 Frank Nelson Bldg., Birmingham, AL 35203. *Contract carrier: irregular routes: paper and paper products*, between points in Mobile County, AL, on the one hand, and, on the other, points in Muscogee, Chattahoochee, Marion, Schley, Dooly, Crisp, Turner, Tift, Colquitt, Brooks, Thomas, Grady, Decatur, Seminole, Miller, Early, Baker, Mitchell, Worth, Lee, Dougherty, Calhoun, Clay, Randolph, Terrell, Quitman, Stewart, Webster, and Sumter Counties, GA, under a continuing contract or contracts with Scott Paper Company, Philadelphia, PA. Supporting shipper: Scott Paper Company, Scott Plaza #1, Philadelphia, PA 19113.

MC 139822 (Sub-3-3TA), filed November 4, 1980. Applicant: FOOD CARRIER, INC., P.O. Box 2287, Savannah, GA 31402. Representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Avenue & 13th St., NW., Washington, D.C. 20004. (1) *Bakery Products, other than frozen*, from the facilities of Interbake Foods, Inc., at or near Richmond, VA, to points in AL, AR, FL, GA, KY, LA, MS, NC, SC, TN and TX; and (2) *equipment, materials and supplies used in the*

manufacture, sale and distribution of the commodities named in (1) above, on return. Supporting shipper: Interbake Foods, Inc., 900 Terminal Place, P.O. Box 27487, Richmond, VA 23261.

MC 146782 (Sub-3-6TA), filed November 4, 1980. Applicant: ROBERTS CONTRACT CARRIER CORPORATION, 300 First Avenue, South, Nashville, Tennessee 37201. Representative: Stephen L. Edwards, 806 Nashville Bank & Trust Building, Nashville, Tennessee 37201. *Iron and Steel Castings; Fittings and Pipe*, between the facilities of Central Foundry in Tuscaloosa County, AL on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, KS, OK and TX. Restricted to traffic originating at or destined to the above named facilities. Supporting shipper: Central Foundry, P.O. Box 108, Holt, Alabama 35401.

MC 121664 (Sub-3-27TA), filed November 4, 1980. Applicant: HORNADY TRUCK LINE, INC., P.O. Box 846, Monroeville, AL 36460. Representative: William E. Grant, 1702 1st Avenue South, Birmingham, AL 35233. *Forest products, lumber or wood products, pulp, paper or allied products and materials, equipment and supplies used in the manufacture thereof* between the facilities of Scott Paper Company at or near Mobile and Mount Vernon, AL on the one hand, and, on the other, points in the states of TX, OK, MO, AR, LA, MS, TN, AL, GA, FL, SC, and NC. Supporting shipper: Scott Paper Company, Scott Plaza II, Philadelphia, PA 19113.

MC 152544 (Sub-3-1TA), filed November 5, 1980. Applicant: CYPRESS TRUCK LINES, INC., 1746 East Adams Street, Jacksonville, FL 32202. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *General Commodities (except household goods as defined by the Commission and classes A & B explosives) as described in Item 51 of the Standard Transportation Commodity Code Tariff, restricted to traffic originating or terminating at the facilities of Florida Wire & Cable Company*, between Jacksonville and Sanderson, FL, on the one hand, and, on the other, points in the United States (except AK and HI). Supporting shipper: Florida Wire & Cable Company, P.O. Box 6835, Jacksonville, FL 32205.

MC 118561 (Sub-3-1TA), filed November 5, 1980. Applicant: HERBERT B. FULLER, d.b.a. FULLER TRANSFER COMPANY, 212 East Street, Maryville, TN 37801. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. *Malt beverages, containers and*

materials, and supplies used in the manufacture and distribution of malt beverages and containers between points in AL, GA, FL, NC, SC, TN, KY and VA. Supporting shipper: Beer Distributing Co., Inc., 921 Cherokee; Nashville, TN 37207.

MC 135895 (Sub-3-17TA), filed November 5, 1980. Applicant: B & R DRAYAGE, INC., P.O. Box 8534, Battlefield Station, Jackson, MS 39204. Representative: Douglas C. Wynn, Wynn, Bogen & Mitchell, P.O. Box 1295, Greenville, MS 38701. (1) *Foodstuffs (except commodities in bulk) and (2) equipment, materials and supplies used in the manufacture, sale and distribution of foodstuffs (except commodities in bulk and those requiring special equipment)*. Between the facilities of Vlasic Foods, Inc., at Greenville, MS on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, CO and NM. Supporting shipper: Vlasic Foods, Inc., 33200 West 14 Mile Road, West Bloomfield, MI 48033.

MC 151551 (Sub-3-3TA), filed November 5, 1980. Applicant: GARDNER TRUCKING COMPANY, INC., 820 Avenue E, Pratt City, AL 35214. Representative: Alvin D. Gardner (address same). *Building materials*, between points in the U.S. in and east of MN, NE, KS, OK and TX. Restricted to shipments moving for the account of Builders Marts of America, Inc. Supporting shipper: Builders Marts of America, P.O. Box 47, Greenville, SC 29602.

MC 116254 (Sub-3-23TA), filed November 5, 1980. Applicant: CHEM-HAULERS, INC., P.O. Box 339, Florence, AL 35631. Representative: Mr. M. D. Miller (same address as above). *Black liquor, in Tank Vehicles*, from Pine Bluff, AR to Courtland, AL. Supporting shipper: Champion International Corporation, Knightsbridge Drive, Hamilton, OH 45020.

MC 136384 (Sub-3-5TA), filed November 5, 1980. Applicant: PALMER MOTOR EXPRESS, INC., P.O. Box 103, Savannah, GA 31402. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. (1) *Paper and paper products (2) Supplies, materials, and equipment used in the manufacture or distribution of paper and paper products*. (1) From the plantsites of Union Camp Corp. at or near Savannah and Tifton, GA to points in IN and IL, (2) From points in IN and IL to plantsites of Union Camp Corp. at or near Savannah and Tifton, GA. Supporting shipper: Union Camp Corp., P.O. Box 570, Savannah, GA 31402.

MC 148183 (Sub-3-11TA), filed November 3, 1980. Applicant: ARROW TRUCK LINES, INC., P.O. Box 432, Gainesville, GA 30503. Representative: Mr. Jerry Gerehty (same address as applicant). (1.) *Motors, electric and (2.) Materials equipment and supplies used in the manufacture, sale and distribution of the commodities named in (1.) above (except in Bulk)*, between Hall County, GA and AL, NC, SC, FL, TX, TN, LA, IL, WI, MS, OH, IN, and MI. Supporting shipper: Leece-Neville Division Sheller Globe Corporation, 989 Athens Street, SE, Gainesville, GA 30501.

MC 152545 (Sub-3-1TA), filed November 5, 1980. Applicant: DAVID E. PROPST, d.b.a. PROPST DISTRIBUTING CO., Route 2, Box 795, Lincolnton, NC 28092. Representative: Dwight L. Koerber, Jr., P.O. Box 1320, 110 N. 2nd St., Clearfield, PA 16830. *Furniture (STCC 25)*, from pts. in Iredell and Catawba Counties NC, to pts. in OK, AR, and TX, under contract with Southern Furniture Co., of Conover, Inc. Supporting shipper: Southern Furniture Co., of Conover, Inc., P.O. Box 307, Conover, NC 28613.

MC 152541 (Sub-3-1TA), filed November 4, 1980. Applicant: MTC, 200 West Commerce St., Hartford, AL 36344. Representative: James N. Miller (same as above). *Contract carrier; irregular routes, Fertilizer and fertilizer materials, applicant does not seek authority to transport commodities in tank vehicles*, from Americus, GA to Hartford, AL and from Hartford, AL to counties in FL west of the Apalachicola River, for the account of International Minerals and Chemicals Corporation. Supporting shipper: International Minerals & Chemicals Corporation, 421 E. Hawley Street, Mundelein, IL 60060.

MC 141326 (Sub-3-8TA), filed November 4, 1980. Applicant: SALTER TRUCKING COMPANY, P.O. Box 67, Eufaula, AL 36027. Representative: Donald B. Sweeney, Jr., Esq., 603 Frank Nelson Building, Birmingham, AL 35203. (1) *Textile products*; (2) *rubber or miscellaneous plastic products*; (3) *leather or leather products*; and (4) *forming fabric*; and (5) *materials, equipment and supplies used in the manufacture of those commodities listed in parts (1), (2), (3), and (4) above*; between Montgomery County, AL, on the one hand, and, on the other, all points in the United States (except AK and HI). Supporting shipper: Appleton Wire Division of A. I., Montgomery, AL.

MC 119777 (Sub-3-23TA), filed November 4, 1980. Applicant: LIGON SPECIALIZED HAULER, INC., Highway 85 East, Madisonville, KY 42431.

Representative: Carl U. Hurst, P.O. Drawer L, Madisonville, KY 42431. *Scrap batteries, pig lead, alloys, and metal articles*, between the facilities of Price Metal Company at Kansas City, MO and points in PA, MI, IL, CO, TX, NE, OK, GA, IA, MA, OH, NY, NJ, AR, IN and KY. Supporting shipper: Price Metal Company, Guinotte and Flora Avenue, Kansas City, MO 64120.

MC 119777 (Sub-3-24TA), filed November 4, 1980. Applicant: LIGON SPECIALIZED HAULER, INC., Highway 85 East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer L, Madisonville, KY 42431. *Oilfield tubular goods*, from Lafayette, LA to points in TX and OK. Supporting shipper: Roger's Sales, Inc., 402 Martin Oaks Drive, Lafayette, LA 70501.

MC 152543 (Sub-3-1TA), filed November 4, 1980. Applicant: J & S TRANSPORTATION, INC., 1015 North Street, Conyers, GA 30207. Representative: J. L. Fant, P.O. Box 577, Jonesboro, GA 30207. *Liquid Chemicals, in bulk, in tank vehicles*, between points in Fulton, DeKalb, Cobb, Clayton, Gwinnett and Rockdale Counties, GA, on the one hand, and, on the other, points in AL, AR, DE, FL, IL, KY, LA, MS, NJ, NY, NC, OH, OK, PA, SC, TN, TX, VA and WV. Supporting witnesses: AZS Corporation, 762 Marietta Blvd., Atlanta Ga 30318, and Industrial Adhesives, Inc., 359 DeKalb Industrial Way, Decatur, GA 30030.

MC 150101 (Sub-3-6TA), filed November 5, 1980. Applicant: BLAZER EXPRESS, INC., Route 2, Pelham Road; Greenville, SC 29607. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. Contract: Irregular: (1) *Adhesive; liquid cements; washing compounds; and liquid latex (except in bulk)*; and, (2) *materials, and supplies used in the manufacture and distribution of the above named commodities*, (1) from Simpsonville, SC and Philadelphia, PA to all pts. in the U.S.; and, (2) from all pts. in the U.S. to Simpsonville, SC and Philadelphia, PA. Supporting shipper: Para-Chem Southern, Inc., P.O. Box 127, Simpsonville, SC 29681.

MC 150395 (Sub-3-1TA), filed November 5, 1980. Applicant: JACKIE B. LOVETT TRUCKING CO., INC., Route 2, Waynesboro, GA 30830. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. *Basic Slag (Fertilizer)*, From the facilities of United States Steel Corp. in and near Birmingham, AL to all points in GA. Supporting shipper: Gold Kist, Inc., 244 Perimeter Center Parkway, NE., Atlanta, GA 30346.

MC 141326 (Sub-3-9TA), filed November 4, 1980. Applicant: SALTER TRUCKING COMPANY, P.O. Box 67, Eufaula, AL 36027. Representative: Donald B. Sweeney, Jr., 603 Frank Nelson Building, Birmingham, AL 35203. (1) *Chemicals or allied products (except in bulk and in tank vehicles)*; and (2) *materials, equipment and supplies used in the manufacture and distribution of the commodities in (1) between Memphis, TN, on the one hand, and, on the other, all points in and east of a line extending from ND, SD, KS, CO, and NM*. Supporting shipper: Drexel Chemical Co., 2487 Pennsylvania Avenue, Memphis, TN.

MC 141326 (Sub-3-7TA), filed November 4, 1980. Applicant: SALTER TRUCKING COMPANY, P.O. Box 67, Eufaula, AL 36027. Representative: Donald B. Sweeney, Jr., 603 Frank Nelson Building, Birmingham, AL 35203. (1) *Fabricated metal products*; (2) *machinery and supplies*; (3) *transportation equipment*; (4) *trailer axles, parts and springs*; (5) *materials, equipment and supplies used in the manufacture and distribution of those commodities listed in parts (1), (2), (3) and (4) above from Montgomery County, AL to all points in the United States (except AK and HI)*. Supporting shipper: Dana Corporation—C & M Axles, 2250 Selma Highway, Montgomery, AL 35108.

MC 121811 (Sub-3-2TA), filed November 5, 1980. Applicant: McCLELLAN'S ENTERPRISES, INC., Highway 41 South, Tifton, GA 31794. Representative: Arthur L. McClellan (same as above). *Particleboard*, between Cook Cy, GA, on the one hand, and, on the other, points in AL, FL, NC, SC, and TN. Supporting shipper: Weyerhaeuser Co., P.O. Box 547, Adel, GA 31620.

MC 116254 (Sub-3-22TA), filed November 5, 1980. Applicant: CHEM-HAULERS, INC., P.O. Box 339, Florence, AL 35631. Representative: Mr. M. D. Miller (same address as above). *Forest and Lumber Products*, from points in AL, GA, FL, MS, and AR, to points in AL, TN, KY, IL, IN, OH, MI, WI, PA, TX, MO, FL, AR, KS, OK, LA, and MS. Supporting shipper: Sherman Wholesale Lumber Company, P.O. Box 267, Killen, AL 35645.

MC 143059 (Sub-3-25TA), filed November 5, 1980. Applicant: MERCER TRANSPORTATION CO., P.O. Box 35601, Louisville, KY 40232. Representative: Janice K. Taylor (same as applicant). *Iron and steel articles*, between Trumbull County, OH and points in the U.S. (except AK and HI). Supporting shipper: Shenango Steel

Company, Inc., P.O. Box 256, Wheatland, PA 16161.

MC 142181 (Sub-3-4TA), filed November 4, 1980. Applicant: LIBERTY CONTRACT CARRIER, INC., 214 Hermitage Avenue, Nashville, TN 37202. Representative: Robert L. Baker, 618 United American Bank Bldg., Nashville, TN 37219. *Contract Carrier: Irregular routes: (1) Such merchandise as is dealt in by catalogue showroom stores and (2) materials, equipment, fixtures and supplies used in the business of a catalogue showroom company between points in the U.S. and in and west of MT, WY, CO, and NM, except AK and HI on the one hand, and, on the other, points in the U.S., under a continuing contract or contracts with Service Merchandise Company, Inc. of Nashville, TN. Supporting shipper: Service Merchandise Company, Inc., 2968 Foster Creighton Drive, Nashville, TN 37204.*

MC 138157 (Sub-3-36TA), filed November 4, 1980. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 South Market Street, Chattanooga, TN 37410. Representative: Patrick E. Quinn (same as above). *Computers, computer parts and accessories, and materials, equipment, and supplies used in the manufacture, production, and distribution of computers and computer parts and accessories between Sunnyvale, Cupertino, San Jose, Thousand Oaks, Costa Mesa, and Irvine, CA and the Los Angeles, CA commercial zone; Carrollton and Richardson, TX; Charlotte, NC; Sudbury and Boston, MA; Minneapolis, MN; and Chicago, IL. Restricted against the transportation of commodities in bulk and further restricted to traffic originating at or destined to the facilities of Apple Computer, Inc. Supporting shipper: Apple Computer, Inc., 10455 Bandley Drive, Cupertino, CA 95014.*

MC 144225 (Sub-3-2TA), filed November 4, 1980. Applicant: JADEEL TRUCKING, INC., 8333 W. McNab Road, Tamarac, FL 33321. Representative: Raymond P. Keigher, Esquire, 401 E. Jefferson St., Suite 102, Rockville, MD 20850. *Contract: Irregular: lumber, lumber products, wood lathe, fence posting, landscape ties, and fire logs, between points in the U.S. in and east of WI, IL, KY, TN and AL, under continuing contract(s) with Sam Cyr Enterprises, Ltd., for 270 days. Supporting shipper: Sam Cyr Enterprises, Ltd., P.O. Box 480, St. Basile, New Brunswick, Canada E0L 1H0.*

MC 152542 (Sub-3-1TA), filed November 4, 1980. Applicant: DAVID W. TAYLOR, 8265 Shallowford Road, Lewisville, NC 27023. Representative: David W. Taylor (same as above). *Contract Carrier: Irregular route: New furniture, from NC, to: VA, DC, MD, PA, OH, GA, SC, TN, KY, WA, CT, NJ, IN, IL, DE, & FL. Supporting B Home Furnishing, 1930 Healy Drive, Winston-Salem, NC 27103.*

MC 135812 (Sub-3-2TA), filed November 5, 1980. Applicant: PROFESSIONAL DRIVE SERVICES, INC., 1631 Lebanon Road, Nashville, TN 37210. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202. *Used trucks, in driveway service, from Louisville, KY and Nashville, TN to Ontario, CA and its Commercial Zone. Supporting shipper: Mack Trucks, Inc., P.O. Box 4160, Richmond, VA 23224.*

MC 148442 (Sub-3-2TA), filed November 7, 1980. Applicant: SOUTHEASTERN FOOD DISTRIBUTORS, INC., d.b.a. SOUTHEASTERN TRANSPORT COMPANY, 607 10th Avenue North, Nashville, TN 37202. Representative: Roland M. Lowell, 618 United American Bank Building, Nashville, TN 37219. *Foodstuffs, (except commodities in bulk) from the facilities utilized by Adams Packing Association, Inc. at or near Memphis, TN to points in the U.S. (except AK and HI). Supporting shipper: Adams Packing Association, Inc., P.O. Box 37, Auburndale, Florida 33823.*

MC 143059 (Sub-3-24TA), filed November 4, 1980. Applicant: MERCER TRANSPORTATION CO., P.O. Box 35610, Louisville, Kentucky 40232. Representative: Janice K. Taylor (same address as applicant). *Building materials (except in bulk, in tank vehicles), between Elbert County, GA, and ND, SD, MT, WY, CO, ID, UT, WA, OR and NV. Supporting shipper: Martins Fireproofing Co., P.O. Box 768, Elberton, GA 30635.*

MC 152486 (Sub-3-1TA), filed November 3, 1980. Applicant: EUGENE DIXON d.b.a. EUGENE DIXON TRUCKING, Rt. 1, Crandall, GA 30711. Representative: Eugene Dixon (same address as applicant). *Contract carrier, irregular routes: Limestone rock, from Chattanooga, TN to Dalton and Chatsworth, GA. Supporting shippers: Georgia Talc Company, P.O. Box 370, Chatsworth, GA 30705; Latex Filler & Chem. Co., Inc., P.O. Box 1546, Dalton, GA 30720; and H&S Industries, Inc., P.O. Box 601, Dalton, GA 30720.*

MC 107515 (Sub-3-83TA), filed November 3, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA

30050. Representative: Alan E. Serby, Esq., 3390 Peachtree Rd., N.E., 5th Floor, Lenox Towers South, Atlanta, GA 30326. *Imported wine, spirits and beverages (except in bulk) having a prior movement by water, in vehicles equipped with mechanical refrigeration from ports of entry to the US on the Guld of Mexico to CO, ND, SD, NE, KS, OK, TX, MN, IA, MO, AR, WI, IL, IN, MI, KY, TN, AL and GA. Supporting shipper: Lykes Bros. Steamship Co., Inc., Lykes Center, 300 Poydras St., New Orleans, LA 70130.*

MC 121654 (Sub-3-25TA), filed November 5, 1980. Applicant: COASTAL TRANSPORT & TRADING CO., P.O. Box 7438, Savannah, GA 31408. Representative: Bruce E. Mitchell, Alan E. Serby, 3390 Peachtree Rd., N.E., 5th Floor, Lenox Towers South, Atlanta, GA 30326. *Steel trusses, from facilities of East Coast Steel, Eastover, SC to points in RI, CT, MA, NY, NJ, PA, MD, DE, NC, FL, GA, AL, MS and LA. Supporting shipper: East Coast Steel, P.O. Box 276, Eastover, SC 29044.*

MC 108676 (Sub-3-5TA), filed November 4, 1980. Applicant: A. J. METLER HAULING & RIGGING, INC., 117 Chicamauga Avenue, Knoxville, TN 37917. Representative: Michael S. Teets (same address as applicant). *Glass, glass products, and commodities used in the manufacture and distribution thereof, between San Joaquin County, CA, on the one hand, and, on the other, points in the US in and west of ND, SD, NE, KS, OK, and TX (except AK and HI). Supporting shipper: Libbey-Owens-Ford Company, 811 Madison Avenue, Toledo, OH 43695.*

MC 149228 (Sub-3-8TA), filed November 4, 1980. Applicant: MARINE TRANSPORT COMPANY, P.O. Box 2142, Wilmington, NC 28202. Representative: Ralph McDonald, P.O. Box 2246, Raleigh, NC 27602. *General commodities (except those of unusual value, commodities in bulk, Classes A and B explosives, commodities requiring special equipment and household goods as defined by the Commission, between the facilities of Singer Company, Coil Div., located at or near Wilmington, NC, Red Bud, IL, and Albany, NY, on the one hand, and, on the other, points in the US, except AK and HI. Supporting shipper: Singer Co., Coil Div., 602 Sunnyvale Dr., Wilmington, NC.*

MC 150403 (Sub-3-1TA), filed November 4, 1980. Applicant: CROWN EXPRESS, INC., P.O. Box 21396, Columbia, SC 29221. Representative: Roland M. Lowell, 618 United American Bank Building, Nashville, TN 37219. *Fiber, yarn, materials, equipment and supplies used in manufacture and*

distribution of fiber and yarn (except commodities in bulk) between the facilities of Allied Chemical Corporation at or near Irmo and Columbia, SC, on the one hand, and, on the other, AL, AR, CA, FL, GA, LA, MS, MD, NC, NJ, OK, PA, SC, TN, TX, VA and WV. Supporting shipper: Allied Chemical Corporation, P.O. Box 1788, Columbia, SC 29202.

MC 141652 (Sub-3-5TA), filed November 4, 1980. Applicant: ZIP TRUCKING, INC., P.O. Box 6126, Jackson, MS 39208. Representative: K. Edward Wolcott, P.O. Box 872, Atlanta, GA 30301. *Power tools, power tool stands, electric motors, industrial vacuum cleaners and hardware (parts/accessories)* from Memphis, TN to Reno and Sparks, NV. Restricted to the transportation of traffic originating at the facilities of Rockwell International. Supporting shipper: Rockwell International Corp., 4290 Raines Road, Memphis, TN 38228.

MC 144083 (Sub-3-1TA), filed November 3, 1980. Applicant: RALPH WALKER, INC., P.O. Box 3222, Jackson, MS 39207. Representative: Fred W. Johnson, Jr., P.O. Box 22807, Jackson, MS 39205. *Portable household appliances* (1) from the facilities of National Presto Industries, Inc., Canton, Mississippi, to points in AZ, CA, ID, NM, NV, OR and WA. (2) from Alamogordo, NM to the facilities of National Presto Industries, Inc., at Canton, Mississippi. Supporting shipper: National Presto Industries, Inc., 3925 North Hastings Way, Eau Claire, WI 54701.

MC 144011 (Sub-3-3TA), filed November 3, 1980. Applicant: HALL SYSTEMS, INC., 214 So. 10th St., Birmingham, AL 35233. Representative: George M. Boles, 727 Frank Nelson Bldg., Birmingham, AL 35203. *Common carrier: Regular General Commodities (with usual exceptions) moving in interstate or foreign commerce*, between New Orleans and Baton Rouge, LA, from New Orleans over US Hwys Interstate 10 and US Hwy 61 to Baton Rouge, serving no intermediate points and serving all points in the commercial zone of Baton Rouge, LA. Applicant intends to tack with authority held in MC-144011 at New Orleans, LA, and to interline at New Orleans and Baton Rouge, LA. There are eleven (11) supporting shipper statements in support to this application which may be examined at the ICC Regional Office in Atlanta, GA.

MC 107515 (Sub-3-84TA), filed November 5, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby,

Esq., 3390 Peachtree Rd., N.E., 5th Floor, Lenox Towers South, Atlanta, GA 30326. *Such merchandise as is dealt in or used by food business houses (except commodities in bulk)* between points in the US, restricted to traffic originating at or destined to the facilities used by Jenos, Inc. Supporting shipper: Jenos, Inc., 525 Lake Avenue South, Duluth, MN 55802.

MC 151526 (Sub-3-2TA), filed November 4, 1980. Applicant: TRIAD TRANSPORTATION SERVICES, INC., P.O. Box 20714, Greensboro, NC 27420. Representative: Jerald A. Honeycutt (same as above). *Plastics and plastic articles, resins, and materials, equipment and supplies used in the manufacture, sale, distribution and installation of plastics and plastic articles*, between points in Guilford, Davidson, Rockingham and Randolph Counties, NC, on the one hand, and, on the other, points in the US, except AK and HI. Supporting shipper: There are five statements in support of this application which may be examined at the I.C.C. Regional Office, Atlanta, GA.

MC 146451 (Sub-3-25TA), filed November 5, 1980. Applicant: WHATLEY-WHITE, INC., 230 Ross Clark Circle, N.E., Dothan, AL 36302. Representative: William K. Martin, P.O. Box 2069, Montgomery, AL 36197. *Power transmission machinery, and related parts, attachments, accessories and supplies (except those commodities which because of size or weight require the use of special equipment)*, from Chambersburg, PA, to Chicago, IL, Dallas, TX, Atlanta, GA, San Leandro, CA, and Trenton, TN, and from Trenton, TN, to Chicago, IL, Dallas, TX, Atlanta, GA, San Leandro, CA, and Chambersburg, PA. Supporting shipper: T. B. Woods Sons Company, 440 North Fifth Avenue, Chambersburg, PA 17201.

MC 144827 (Sub-3-19), filed November 5, 1980. Applicant: DELTA MOTOR FREIGHT, INC., P.O. Box 18423, Memphis, TN 38118. Representative: R. Connor Wiggins, Jr., Suite 909, 100 N. Main Bldg., Memphis, TN 38103. *General commodities (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) which at the time are moving on Bills of Lading of freight forwarders* from Cranston, RI; Milford, CT; Secaucus, NJ; Boston, MA; Philadelphia, PA; Baltimore, MD; and Cincinnati, OH to Laredo, TX; New Orleans, LA; and El Paso, TX. Supporting shipper: Florida-Texas Freight, Inc., P.O. Box 1173, Secaucus, NJ 07094

MC 134105 (Sub-3-6TA), filed November 5, 1980. Applicant: CELERYVALE TRANSPORT, INC., 1706 Rossville Ave., Chattanooga, TN 37408. Representative: Jack H. Blanshan, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. *Groceries, provisions and supplies sold and used in retail grocery stores (except commodities in bulk)*, between points in the United States in and east of ND, SD, NE, CO, OK and TX restricted to the transportation of traffic either originating at or destined to the facilities of the Kroger Company. Supporting shipper: The Kroger Company, 1240 State Avenue, Cincinnati, OH 45204.

MC 138157 (Sub-3-35TA), filed November 4, 1980. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 South Market Street, Chattanooga, TN 37410. Representative: Patrick E. Quinn (same as above). *Fans, heaters, and stands and materials, equipment, and supplies used in the manufacture, production, and distribution of fans, heaters, and stands* between Ft. Worth, TX; Franklin, TN; and West Chester and Columbia, PA on the one hand, and, on the other, points in U.S. Restricted against the transportation of commodities in bulk and further restricted to traffic originating at or destined to the facilities of Lasko Metal Products. Supporting shipper: Lasko Metal Products, 820 Lincoln Avenue, West Chester, PA 19380.

MC 147511 (Sub-3-2TA), filed November 5, 1980. Applicant: DELMAR RAY IPOCK, d.b.a. EAST CAROLINA CARTAGE CO., P.O. Box 1245, Kinston, NC 28501. Representative: Ralph McDonald, Attorney at Law, P.O. Box 2246, Raleigh, NC 27602. *Synthetic fiber waste* from points in Berkeley County, SC to the facilities of E. I. Du Pont de Nemours and Company in Lenoir County, NC. Supporting shipper(s): E. I. Du Pont de Nemours and Company, Wilmington, DE 19898.

MC 148423 (Sub-3-6TA), filed November 5, 1980. Applicant: AVANT TRUCKING CO., INC., P.O. Box 216, Gray, GA 31032. Representative: R. Napier Murphy, 700 Home Federal Building, Macon, GA 31201. *Road building materials and aggregates* from points in GA to points in SC and from points in SC to points in GA. Supporting shippers: J & B Slurry Seal Co., Route 4, Box 203B, Rockingham, NC 28379; Clarke Block Company, Tremont and Ogeechee Roads, Savannah, GA 31405; Stone & Sand, Inc., 5601 Ogeechee Road, Savannah GA 31405; and Pre-Cast

Concrete Products, 2820 Tremont Road, Savannah, GA 31405.

MC 124117 (Sub-3-4TA), filed November 5, 1980. Applicant: EARL FREEMAN and MARIE FREEMAN, d.b.a. MID-TENN EXPRESS, P.O. Box 101, Eagleville, TN 37060. Representative: Roland M. Lowell, 618 United American Bank Building, Nashville, Tennessee 37219. *Malt beverages and brewery supplies*, between LaCrosse, WI (and its commercial zone) on the one hand, and, on the other, points in AL, GA and TN. Supporting shipper: G. Heileman Brewing Company, Inc., 100 Harborview Plaza, LaCrosse, WI 54601.

MC 115311 (Sub-3-12TA), filed November 5, 1980. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. *Fibrous glass products, insulating products and materials, equipment and supplies used in the manufacture, distribution and installation of same* from the facilities of Johns-Manville Sales Corporation at Winder, GA to points in AL, FL, LA, MS, NC, SC, TN and VA. Supporting shipper: Johns-Manville Sales Corporation, P.O. Box 105545, Atlanta, GA 30348.

MC 148773 (Sub-3-2TA), filed November 4, 1980. Applicant: A. F. L. TRUCK LINES, INC., 3361 W. Blue Heron Blvd., Riviera Beach, FL 33404. Representative: Anthony E. Young, 29 S. LaSalle St., Suite 350, Chicago, IL 60603. *Contract carrier: irregular: Fiberglass structural components, tanks and vessels* from Miamitown, OH to points in Dade County, FL under a contract or continuing contracts with R. L. Industries, Inc. Supporting shipper: R. L. Industries, Inc. 5885 State Route 128, Miamitown, OH 45041.

MC 125368 (Sub-3-13TA), filed November 3, 1980. Applicant: CONTINENTAL COAST TRUCKING CO., INC., P.O. Box 26, Holly Ridge, NC 28445. Representative: Roland M. Lowell, 618 United American Bank Bldg., Nashville, TN 37219. *Nonexempt foods or kindred products* for H. J. Heinz Company, between Allegheny County, PA, Sandusky County, OH and Ottawa County, MI on the one hand, and, on the other, points in FL, SC, and TX. Supporting shipper: H. J. Heinz Company, P.O. Box 57, Pittsburgh, PA 15230.

MC 152530 (Sub-3-1TA), filed November 4, 1980. Applicant: WINDER'S WRECKER SERVICE CO., 5315 Knight Arnold Road, Memphis, TN 38118. Representative: Robert L. White, Suite 1031, 100 North Main, Memphis, TN 38103. *Wrecked, disabled and*

replacement vehicles in truck away or tow away service, between Memphis, TN and its commercial zone on the one hand, and, on the other, points in AL, AR, IL, KY, LA, MO, and MS. Supporting shipper: There are 9 appendix of support which may be reviewed at the Atlanta, GA Regional Office.

MC 152532 (Sub-3-1TA), filed November 5, 1980. Applicant: G & W PAVING, INC., Highway 31 South, P.O. Box 237, Garden City, AL 35070. Representative: D. E. Wood (same address as applicant). *Contract, irregular: Dry fertilizer and fertilizer raw materials*, between points in the states of AL and GA. Supporting shipper: Gold Kist, Inc., 244 Perimeter Center Parkway, Atlanta, GA 30346.

MC 121644 (Sub-3-3TA) filed November 4, 1980. Applicant: S & W FREIGHT LINES, INC., 1136 Haley Road, P.O. Box 667, Murfreesboro, TN 37130. Representative: Robert L. Baker, Sixth Floor, United American Bank Bldg., Nashville, TN 37219. *Common carrier: regular routes: General Commodities (except household goods as defined by the Commission and classes A and B explosives)* between Atlanta, GA, and Bristol, VA (1) From Atlanta over I-85 to junction with I-26, then over I-26 to junction with I-40, then over I-40 to junction with I-81, then over I-81 to Bristol and return over the same route, serving all intermediate points and serving all points in Hawkins, Sullivan, Cocke, Hamblen, Jefferson, Greene, Washington, Knox and Carter Counties, TN, Harrison County, VA, and Anderson, Greeneville and Spartanburg Counties, SC, Buncombe County, NC, and Dade, Walker, Catoosa, Fulton, Dekalb, Cobb, Clayton, Douglas, Henry, Rockdale, Fayette and Gwinnett Counties, GA, as off-route points and serving the commercial zones of all authorized service points. (2) From Atlanta, GA, over I-75 to junction with I-40, then over I-40 to junction with I-81 then over I-81 to Bristol and return over the same route serving the intermediate points Chattanooga and Knoxville, TN, and serving all other points in Cocke, Hamblen, Jefferson, Greene, Washington, Knox, and Carter Counties, TN, and Fulton, Dekalb, Cobb, Clayton, Douglas, Henry, Rockdale, Fayette and Gwinnett Counties, GA, as off-route points; and serving the commercial zones of all authorized service points. Applicant proposes to interline at Atlanta, GA, Greeneville and Spartanburg, SC, Asheville, NC, Bristol, Johnson City and Kingsport, TN and Bristol, VA, and proposes to tack with existing authority in MC-121644. Supporting Shippers: There are 37

statements of support attached to this application which may be examined at the ICC Regional Office in Atlanta, GA.

MC 61264 (Sub-3-4TA), filed November 5, 1980. Applicant: PILOT FREIGHT CARRIERS, INC., a North Carolina corporation, P.O. Box 615, Winston-Salem, NC 27102. Representative: Mrs. Pansy Beroth, Pilot Freight Carriers, Inc., P.O. Box 615, Winston-Salem, NC 27102. *Common carrier, regular routes, General Commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, and those injurious and contaminating to other lading)*, (1) Between Tallahassee, FL and Alachua, FL: From Tallahassee over US Highway 27 to junction US Highway 441, then over US Highway 441 to Alachua, and return over the same route; (2) between Tallahassee, FL and Jacksonville, FL: From Tallahassee over US Highway 90 (also over Interstate Highway 10) to Jacksonville, and return over the same route; (3) between Tallahassee, FL and Boston, MA: From Tallahassee over US Highway 27 to Chattanooga, TN, then over Interstate Highway 24 to junction Interstate Highway 65, then over Interstate Highway 65 to junction Interstate Highway 71, then over Interstate Highway 71 (also over US Highway 42) to junction Interstate Highway 90, then over Interstate Highway 90 to Boston, and return over the same route; (4) Between Capps, FL and Pittsfield, MA: From Capps over US Highway 19 to junction US Highway 23, then over US Highway 23 to junction US Highway 19, then over US Highway 19 to Erie, PA, the over US Highway 20 to Pittsfield, and return over the same route; (5) between Phenix City, AL and Jacksonville, FL: From Phenix City over US Highway 280 to Richland, GA, then over GA Highway 55 to Dawson, GA, then over US Highway 82 to junction US Highway 1, then over US Highway 1 to Jacksonville, and return over the same route; (6) between Georgetown, GA and Dawson, GA: From Georgetown over US Highway 82 to Dawson, and return over the same route; (7) between Bainbridge, GA and Savannah, GA: From Bainbridge over US Highway 84 to Waycross, GA, then over US Highway 82 to junction US Highway 17, then over US Highway 17 to Savannah, and return over the same route; (8) between Macon, GA and Lake City, FL: From Macon over Interstate Highway 75 (also over US Highway 41) to Lake City, and return over the same route; (9) Between Macon, GA and Cincinnati, OH: From Macon over

Interstate Highway 75 to Cincinnati, and return over the same route; (10) between Macon, GA and Phenix City, AL: From Macon over US Highway 80 to Phenix City, and return over the same route; (11) between Macon, GA and Jacksonville, FL: From Macon over US Highway 23 to junction US Highway 341, then over US Highway 341 to Brunswick, GA, then over US Highway 17 to Jacksonville, and return over the same route; (12) between Cincinnati, OH and Portsmouth, OH: From Cincinnati over US Highway 52 to Portsmouth, and return over the same route; (13) between Valdosta, GA and Augusta, GA: From Valdosta over US Highway 84 to junction US Highway 1, then over US Highway 1 to Augusta, and return over the same route; (14) between junction Interstate Highway 287 and Interstate highway 80 and junction Interstate highway 80 and US Highway 42: From junction Interstate Highway 287 over Interstate Highway 80 to junction US Highway 42, and return over the same route; (15) between junction interstate Highway 295 and US Highway 30 and junction US Highway 30 and US Highway 42: From junction Interstate Highway 295 over US Highway 30 to junction US Highway 42, and return over the same route; (16) between Buffalo, NY and Bedford, PA: From Buffalo over NY Highway 16 to junction PA Highway 646, then over PA Highway 646 to junction US Highway 219, then over US Highway 219 to Johnsonburg, PA, then over PA Highway 255 to Penfield, PA, then over PA Highway 153 to Clearfield, PA, then over US Highway 322 to Philipsburg, PA, then over PA Highway 350 to Bald Eagle, PA, then over US Highway 220 to Bedford, and return over the same route; (17) between junction US Highway 50 and MD Highway 404 and Milford, DE: From junction US Highway 50 over MD Highway 404 to junction MD Highway 313, then over MD Highway 313 to junction MD Highway 317, then over MD Highway 317 to junction DE Highway 14, then over DE Highway 14 to Milford, and return over the same route; (18) between Wheeling, WV and Columbus, OH: From Wheeling over US Highway 40 to Columbus, and return over the same route; (19) between Cleveland, OH and junction Interstate Highway 77 and Interstate Highway 81: From Cleveland over Interstate Highway 77 to junction Interstate Highway 81, and return over the same route; (20) between Delaware, OH and Asheville, NC, serving all intermediate points, but serving intermediate points in North Carolina for joinder only: From Delaware over US Highway 23 to Asheville, and return

over the same route; (21) between Xenia, OH and Charleston, WV: From Xenia over US Highway 35 to junction US Highway 60, then over US Highway 60 to Charleston, and return over the same route; (22) between junction US Highway 42 and US Highway 33 and junction US Highway 50 and interstate Highway 77: From junction US Highway 42 over US Highway 33 to Athens, OH, then over US Highway 50 to junction Interstate Highway 77, and return over the same route; (23) between junction New Jersey Turnpike and New Jersey Highway 42 and Bedford, PA: From junction NJ Turnpike over NJ Highway 42 to junction Interstate Highway 76, then over Interstate Highway 76 to Bedford, and return over the same route; (24) between Medina, OH and Akron, OH: From Medina over OH Highway 18 to Akron, and return over the same route; (25) between Charleston, WV and Lexington, KY: From Charleston over US Highway 60 to Lexington, and return over the same route; (26) between Rouses Point, NY and Chattanooga, TN, serving all intermediate points, but serving intermediate points in Virginia for joinder only: From Rouses Point over US Highway 11 to US Highway 11W, then over US Highway 11W (also over US Highway 11E) to junction US Highway 11, then over US Highway 11 to Chattanooga, and return over the same route; (27) between junction Interstate Highway 75 and Interstate Highway 40 and Asheville, NC, serving all intermediate points, but serving intermediate points in North Carolina for joinder only: From junction Interstate Highway 75 over Interstate Highway 40 to Asheville, and return over the same route; (28) between Erie, PA and Charleston, WV: From Erie over Interstate Highway 79 to Charleston, and return over the same route; (29) between Niagara Falls, NY and Bellaire, OH: From Niagara Falls over US Highway 62 to junction OH Highway 7, then over OH Highway 7 to Bellaire, and return over the same route; (30) between Watertown, NY and Malone, NY: From Watertown over NY Highway 37 to Malone, and return over the same route; (31) between Binghamton, NY and Troy, NY: From Binghamton over NY Highway 7 (and also over completed portions of Interstate Highway 88) to Troy, and return over the same route; (32) between Rochester, NY and Lucketts, VA: From Rochester over NY Highway 15 (also over Highway 15A) to junction Interstate Highway 390, then over Interstate Highway 390 to junction NY Highway 17, then over NY Highway 17 to junction US Highway 15, then over US Highway 15 to Lucketts, and return

over the same route; (33) between Binghamton, NY and Alexandria Bay, NY: From Binghamton over NY Highway 12 to Alexandria Bay, and return over the same route; (34) between New York, NY and Champlain, NY: From New York over Interstate Highway 87 to Albany, NY, then over Interstate Highway 87 (also over US Highway 9) to Champlain, and return over the same route; (35) between Alexandria Bay, NY and Chattanooga, TN: From Alexandria Bay over NY Highway 12 to junction Interstate Highway 81, then over Interstate Highway 81 to junction Interstate Highway 75, then over Interstate Highway 75 to Chattanooga, and return over the same route; (36) between Westfield, NY and Newark, NJ: From Westfield over NY Highway 17 to junction NJ Highway 17, then over NJ Highway 17 to Newark, and return over the same route; (37) between junction Interstate Highways 76 and 276 and junction Interstate Highway 276 and New Jersey Turnpike: From junction Interstate Highway 76 over Interstate Highway 276 to junction NJ Turnpike, and return over the same route; (38) between junction Interstate Highway 81 and Interstate Highway 78 and New York, NY: From junction Interstate Highway 81 over Interstate Highway 78 to junction Interstate Highway 287, then over Interstate Highway 287 to junction US Highway 22, then over US Highway 22 to junction Interstate Highway 78, then over Interstate Highway 78 to New York, and return over the same route; (39) between junction Interstate Highway 87 and US Highway 202 and Perth Amboy, NJ: From junction Interstate Highway 87 over US Highway 202 to junction Interstate Highway 287, then over Interstate Highway 287 to Perth Amboy, and return over the same route; (40) between Eatonton, GA and Tifton, GA: From Eatonton over US Highway 441 to Jacksonville, GA, then over US Highway 319 to Tifton, and return over the same route; (41) between Harrisburg, PA and junction MD Highway 3 and US Highway 50/301: From Harrisburg over Interstate Highway 83 to Baltimore, MD, then over MD Highway 3 to junction US Highway 50/301, and return over the same route; (42) between Winchester, VA and Frederick, MD: From Winchester over VA Highway 7 to junction US Highway 340, then over US Highway 340 to Frederick, and return over the same route; (43) between Enfield, CT and Springfield, MA: From Enfield over US Highway 5 to Springfield, and return over the same route; (44) between Hartford, CT and junction Interstate Highway 86 and Interstate Highway 90

at interchange #9 in MA: From Hartford over Interstate Highway 86 to junction Interstate Highway 90, and return over the same route; (45) between Scranton, PA and Port Jervis, NY: From Scranton over Interstate Highway 84 to Port Jervis, and return over the same route; (46) between Trenton, NJ and junction US Highways 13 and 301S: From Trenton over US Highway 1 to junction US Highway 13, then over US Highway 13 to junction US Highway 301S, and return over the same route; (47) between junction PA Highway 3 and US Highway 202 and junction US Highway 13 and US Highway 40: From junction PA Highway 3 over US Highway 202 to Wilmington, DE, then over DE Highway 141 to junction US Highway 13, then over US Highway 13 to junction US Highway 40, and return over the same route; (48) between junction US Highway 301 and MD Highway 300 and Dover, DE: From junction US Highway 301 over MD-DE Highway 300 to junction DE Highway 44, then over DE Highway 44 to junction DE Highway 8, then over DE Highway 8 to Dover, and return over the same route; (49) between Wilmington, DE and Waverly, NY: From Wilmington over US Highway 13 to Philadelphia, PA, then over PA Highway 611 to junction PA Highway 309, then over PA Highway 309 to Tunkhannock, PA, then over US Highway 6 to Towanda, PA, then over US Highway 220 to Waverly, and return over the same route; (50) between Murphy, NC and Chattanooga, TN: From Murphy over US Highway 64 to Chattanooga, and return over the same route; (51) between Ocoee, TN and Chatsworth, GA: From Ocoee over US Highway 411 to Chatsworth, and return over the same route; (52) between Trout Run, PA and Horseheads, NY: From Trout Run over PA Highway 14 to junction NY Highway 14, then over NY Highway 14 to Horseheads, and return over the same route; (53) between Havre de Grace, MD and Lancaster, PA: From Havre de Grace over US Highway 222 to Lancaster, and return over the same route; (54) between Port Jervis, NY and Philadelphia, PA: From Port Jervis over US Highway 209 to junction PA Highway 611, then over PA Highway 611 to Philadelphia, and return over the same route.

Serving all intermediate points and Commercial Zones thereof on the above routes and serving as off-route points all points in Georgia on and south of US Highway 80 and on and west of US Highway 41, and all points in Florida east of the Apalachicola River and in and west of Leon and Wakulla Counties. Applicant has also filed an underlying ETA seeking 120 days of operating

authority. Supporting shipper(s): There are approximately 35 statements of support attached to the application which may be examined at the Interstate Commerce Commission, Regional Complaint and Authority Center, P.O. Box 7520, Atlanta, GA 30309. Send protests to: Interstate Commerce Commission, Regional Complaint Center, P.O. Box 7520, Atlanta, GA 30309.

Note.—Applicant intends to tack the above with its existing authorities under MC 61264 and Subs and to interline with other carriers.

MC 146331 (Sub-3-1-TA), filed November 6, 1980. Applicant: CLIFF GILL, d.b.a. GILL ENTERPRISES, Rt. 1, Box 297-B, P.O. Box 851, Semmes, AL 36575. Representative: Cliff Gill (same as applicant). *Contract Carrier*, irregular routes, *Hazardous and non-hazardous waste* between points in AL, AR, LA, MS, NV, OK, FL and TX, under continuing contract(s) with Environmental Pollution Control, Inc. Supporting shipper: Environmental Pollution Control, Inc., P.O. Box 9336, Mobile, AL 36691.

The following protests were filed in Region 4. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, 219 South Dearborn Street, Room 1304, Chicago, IL 60604.

MC 144879 (Sub-4-1TA), filed November 7, 1980. Applicant: D AND J TRANSFER COMPANY, INC., Highway 4 North, Sherburn, MN 56171. Representative: Lavern R. Holdeman, P.O. Box 81849, Lincoln, NE 68501. *Meats, meat products, meat by-products and articles distributed by meat packinghouses*, as described by the Commission (except in bulk), from the facilities of Landy Packing Co., at or near St. Cloud, MN to points in the states of IL, IN, IA, KS, KY, MI, MO, NE, ND, SD, OH, and WI. Supporting shipper: Landy Packing Co., P.O. Box 670, First Avenue and 16th Street South, St. Cloud, MN 56301. An underlying ETA seeks 120 days authority.

MC 145371 (Sub-4-2TA), filed November 6, 1980. Applicant: MFCH, INC., Route 1, Kings, IL 61045. Representative: Daniel O. Hands, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. *Automotive chemicals (except in bulk) and packaging materials* from the facilities of Konalrad Products, Inc. at Columbus Grove and Pandora, OH to Murray and Salt Lake City, UT and points in CA, CO, IA, IL, KS, MN, MO, NC, NE, NJ, NY, OK, OR, PA, SC, TX, VA, WA and WI. Supporting shipper: Konalrad Products, Inc., 501 South Basinger Road, Pandora, OH 45877.

MC 126276 (Sub-4-10TA), filed November 6, 1980. Applicant: FAST

MOTOR SERVICE, INC., 9100 Plainfield Road, Brookfield, IL 60513.

Representative: Albert A. Andrin, 180 North LaSalle Street, Chicago, IL 60601. *Contract carrier*, irregular routes: *Waste paper and newsprint, and materials and supplies used or useful in the manufacture and distribution of the above items*, between Alsip, IL, on the one hand, and, on the other, points in the United States, under a continuing contract or contracts with FSC Paper Corporation, Inc. An underlying ETA seeks 120 days authority. Supporting shipper: FSC Paper Corporation, Inc., 13101 South Pulaski Road, Alsip, IL 60658.

MC 152516 (Sub-4-1TA), filed November 5, 1980. Applicant: A & E ASSOCIATES, INC., 3047 South Cicero, Chicago, IL 60650. Representative: D. L. Bertelle, 221 North LaSalle St., Rm. 1164, Chicago, IL 60601. *Contract*; irregular; *general commodities*, except for articles of unusual value, household goods as defined by the Commission, Class A and B explosives, commodities in bulk, and those requiring special equipment; between points in the contiguous forty-eight States (not including Hawaii or Alaska), under a continuing contract with Transportation Service, Inc., Chicago, IL. Supporting shipper: Transportation Service, Inc., 3047 South Cicero, Chicago, IL 60650.

MC 150860 (Sub-4-1TA), filed November 6, 1980. Applicant: CAL BETTEN TRUCKING, 4212 44th St. SW., Grandville, MI 49418. Representative: D. Richard Black, Jr., Cottonwood Drive, Jenison, MI 49428. *Contract*—irregular, *Health and beauty aids, drugs and toilet articles* between Allegan, MI and North Little Rock, AR; Glendale, AZ; Phoenix, AZ and commercial zones; Tempe, AZ and commercial zones; Los Angeles, CA and commercial zones; Sacramento, CA; San Francisco, CA and commercial zones; North Hampton, CT; Fort Lauderdale, FL; Largo, FL; Melbourne, FL; Orlando, FL; Atlanta, GA; East Point, GA; Newnan, GA; Shenandoah, GA; Chicago, IL; Indianapolis, IN; Kansas City, KS; Auburn, MA; Detroit, MI; Hazelwood, MO; St. Louis, MO; Charlotte, NC; Henderson, NC; Berkeley Heights, NJ; Clifton, NJ; Fairless Hills, NJ and surrounding area; Patterson, NJ and surrounding area; Reno, NV; Sparks, NV; Brooklyn, NY and surrounding area; Norwich, NY; Cleveland, OH; Port Clinton, OH; Oklahoma City, OK and commercial zones; Portland, OR; Harrisburg, PA; Morrisville, PA; Somerset, PA; North Augusta, SC; Knoxville, TN; Memphis, TN; Nashville, TN; Dallas, TX; Houston, TX; Tamina, TX; Salt Lake City, UT and commercial

zones; Salem, VA; Charleston, WV; Washington, DC. Supporting shipper: L. Perrigo, Inc., 117 Water Street, Allegan, MI.

MC 118202 (Sub-4-13TA), filed November 6, 1980. Applicant: SCHULTZ TRANSIT, INC., P.O. Box 406, 323 Bridge Street, Winona, MN 55987. Representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Meat, meat products, meat by-products and articles distributed by meat packing houses*, from the facilities of Landy, Inc., at St. Cloud, MN to points in CT, DE, IL, IN, IA, KS, KY, ME, MO, MA, MI, MD, NE, NH, NJ, NY, ND, OH, PA, RI, SD, VT, VA, WV, WI and DC. Supporting shipper: Landy Packing Company, P.O. Box 670, St. Cloud, MN 56301.

MC 128652 (Sub-4-8), filed November 6, 1980. Applicant: LARSON TRANSFER & STORAGE CO., INC., 10700 Lyndale Avenue South, P.O. Box 877 Minneapolis, MN 55440. Representative: George L. Hirschbach, 920 West 21st St., P.O. Box 155, South Sioux City, NE 68776. *Contract, irregular; Clothing, and materials, equipment and supplies used in the manufacture and sale of clothing*, between Hamilton, AL; Burlington, NJ; and Crossville, TN; on the one hand, and on the other, Minneapolis, MN under continuing contract(s) with Munsingwear, Inc. Supporting shipper: Munsingwear, Inc., 718 Glenwood Avenue, Minneapolis, MN 55405.

MC 118202 (Sub-4-12TA), filed November 6, 1980. Applicant: SCHULTZ TRANSIT, INC., P.O. Box 406, 323 Bridge Street, Winona, MN 55987. Representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Meat, meat products, meat by-products and articles distributed by meat packinghouses*, from Rochelle, IL to points in Florida. An underlying ETA seeks 120 days authority. Supporting shipper: Swift Independent Packing Co., a division of Swift & Company, 115 W. Jackson Blvd., Chicago, IL 60604.

MC 152515 (Sub-4-1TA), filed November 6, 1980. Applicant: WILLIAM J. TURNER, d.b.a. SUPREME PARCEL SERVICE, 1815 Ogden Ave., Lisle, IL. Representative: James R. Madler, 120 W. Madison St., Chicago, IL 60602. *Electronic and plastic products and parts, and materials, equipment and supplies used in the manufacture, assembly, sale and distribution of electronic and plastic products (except in bulk)*, between Lisle, IL, on the one hand, and, on the other, Niles, MI, South Bend, IL, and Milwaukee and West Bend, WI. Supporting shippers: Molex, Inc., Lisle, IL, and Bruck Plastics, Broadview, IL.

MC 119974 (Sub-4-2TA), filed November 6, 1980. Applicant: L. C. L. TRANSIT COMPANY, 949 Advance Street, Green Bay, WI 54304. Representative: L. F. Abel, P.O. Box 949, Green Bay, WI 54305. *Lard and Animal Oil, in tank vehicles*, between Sioux Falls and Huron, SD on the one hand and the states of IL, IA, MN, NE and WI on the other. An underlying ETA seeks 120 days authority. Supporting shipper: Armour & Company, Greyhound Tower, Phoenix, AZ 85077.

MC 59124 (Sub-4-2TA), filed November 6, 1980. Applicant: MAIERS MOTOR FREIGHT COMPANY, 875 E. Huron Ave., Vassar, MI 48764. Representative: Wayne D. Fox (same as applicant). *Castings and materials, equipment and supplies used in the manufacture and distribution of castings* between the facilities of Eaton Corporation at Vassar, MI, on the one hand, and, on the other, points in AL, IA, IL, IN, MI, MN, MO, OH and WI. Supporting shipper: Eaton Corporation, General Products Division, 700 E. Huron Ave., Vassar, MI 48768.

MC 95876 (Sub-4-7TA), filed November 3, 1980. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Ave., No., St. Cloud, MN 56301. Representative: Stephen F. Grinnell, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Irrigation systems, equipment, and parts therefor*, from Douglas County, GA, to points in the U.S. (including AK but excluding HI). Supporting shipper: Irrifrance U.S.A., P.O. Box 939, Villapak, GA 30180.

MC 124078 (Sub-4-44TA), filed November 3, 1980. Applicant: SCHWERMANN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevete, P.O. Box 1601, Milwaukee, WI 53201. *Isopropanol Alcohol (Flammable Liquid) in liquid bulk tank trucks*, from Deer Park, TX and Baton Rouge, LA to Augusta, GA. An underlying ETA seeks 120 days authority. Supporting shipper: The Kendall Company P.O. Box 157, Bethune, S.C. 29009.

MC 145748 (Sub-4-2TA), filed November 5, 1980. Applicant: MEYERS TRANSFER, INC., Rt. 64, East Mt. Morris, IL 61054. Representative: Abraham A. Diamond, 29 South La Salle Street, Chicago, IL 60603. Transporting (a) *Buildings, structures, KD, prefabricated, precut, or otherwise, and components thereof; Materials, supplies, equipment and appliances built into or used in such buildings or structures; and (b) Equipment, materials, and supplies used or useful in the manufacture, sale or distribution of the commodities described in (a) above*, between points

in the U.S. Supporting shipper: Cedar Forest Products Co., 107 West Coloan, Polo, IL 61064.

MC 152489 (Sub-4-1TA), filed November 5, 1980. Applicant: ART KOHLER TRUCKING, INC., P.O. Box 68, Audubon, MN 56511. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. *Ceramic tile*, from Lexington, NC to Minneapolis, MN commercial zone. Supporting shipper: KATE-LO, Inc., 6750 West Broadway, Minneapolis, MN 55428. An underlying ETA seeks 120 days authority.

MC 152389 (Sub-4-1TA), filed November 5, 1980. Applicant: JIM'S HOT SHOT SERVICE, INC., Box 212, Mandan, ND 58554. Representative: Richard P. Anderson, 502 First National Bank Bldg., Fargo, ND 58126. *Equipment, materials, parts and supplies (excluding drilling rigs and liquid commodities in bulk) used in or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and by-products*, between points in ND on and west of U.S. Hwy. 83, on the one hand, and, on the other, points in MT, WY, UT, CO, SD, NE, KS, NM, LA, OK and TX. An underlying ETA seeks 120 days authority. Supporting shippers: There are 10 statements of support attached.

MC 152516 (Sub-4-1TA), filed November 5, 1980. Applicant: A & E ASSOCIATES, INC., 3047 South Cicero, Chicago, IL 60650. Representative: D. L. Bertelle, 221 North LaSalle Street, Rm. 1164, Chicago, IL 60601. *Contract; irregular; general commodities, except for particles of unusual value, household goods as defined by the Commission, Class A and B explosives, commodities in bulk, and those requiring special equipment; between points in the contiguous forty-eight States (not including Hawaii or Alaska), under a continuing contract with Transportation Service, Inc., Chicago, IL. Supporting shipper: Transportation Service, Inc., 3047 South Cicero, Chicago, IL 60650.*

MC 152513 (Sub-4-1TA), filed November 6, 1980. Applicant: LARRY JACOBSON, Rural Route No. 2, Williston, ND 58501. Representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203. *Dry ground corn starch*, from the facilities of Hubinger Company at or near Keokuk, IA to points in ND on and west of U.S. Hwy 83 and to points in MT in and east of Valley, Garfield, Rosebud, and Powder River Counties, MT. Supporting shipper: Hubinger Company, 601 Main St., Keokuk, IA 52632. An

underlying ETA seeks 120 days authority.

MC 54591 (Sub-4-1TA), filed October 21, 1980. Applicant: SOUTHEASTERN TRAILWAYS, INC., P.O. Box 1207, 1820 West 16th Street, Indianapolis, IN 46206. Representative: J. E. Morley, P.O. Box 1207, 1820 West 16th St., Indianapolis, IN 46206. *Common, Regular Passengers and their baggage, and express and newspapers in the same vehicle with passengers*, between Indianapolis, IN and Louisville, KY via interstate Hwy 65, serving all intermediate points. Applicant proposes to tack the authority sought here at Indianapolis, IN with its existing authority and to interline at Indianapolis and Louisville, KY. Supporting shippers: There are 13 statements in support to this application.

MC 112801 (Sub-4-2TA), filed November 5, 1980. Applicant: TRANSPORT SERVICE CO., 15 Salt Creek Lane, Hinsdale, IL 60521. Representative: Michael D. Bromley, 805 McLachlen Bank Building, 666 Eleventh Street, N.W., Washington, D.C. 20001. *Common; irregular, Liquid caustic soda, in bulk*, from the facilities of Diamond Shamrock Corporation, at or near St. Louis, MO, to points in IL. Supporting shipper: Diamond Shamrock Corporation, 1100 Superior Avenue, Cleveland, OH 44114.

MC 152514 (Sub-4-1TA), filed November 6, 1980. Applicant: MOTOR ACTIVITIES, LTD., 860 Skokie Highway, Lake Bluff, IL 60044. Representative: James R. Madler, 120 W. Madison St., Chicago, IL 60602. *Such commodities as are sold by retail and wholesale food and drug outlets*, between Racine and Waxdale, WI, on the one hand, and, on the other, points in the U.S. on and east of the Mississippi River. Supporting shipper: S. C. Johnson & Son, Inc., Racine, WI 53403.

The following applications were filed in Region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, Post Office Box 17150, Fort Worth, TX 76102.

MC 49387 (Sub-5-3), filed November 5, 1980. Applicant: ORSCHELN BROS. TRUCK LINES, INC., U.S. Hwy 24 East, P.O.B. 658, Moberly, MO 65270. Representative: Frank W. Taylor, Jr., 1221 Baltimore Ave., Kansas City, MO 64105. *Common, regular General commodities, except Classes A and B explosives and household goods as defined by the Commission*, between St. Louis, MO and its commercial zone, and Nashville, TN and its commercial zone, (1) from St. Louis over Interstate Hwy 64 to junction of Interstate Hwy 64 and U.S. Hwy 41, then over U.S. Hwy 41 to Nashville, and return over the same

route; and (2) from St. Louis, MO over Interstate Hwy 64 to junction of Interstate Hwy 64 and Interstate Hwy 57, then over Interstate Hwy 57 to junction of Interstate Hwy 57 and Interstate Hwy 24, then over Interstate Hwy 24 to Nashville, TN, and return over the same route. Applicant intends to tack and interline. There is no supporting shipper.

MC 49387 (Sub-5-4), filed November 5, 1980. Applicant: ORSCHELN BROS. TRUCK LINES, INC., U.S. Hwy 24 East, P.O.B. 658, Moberly, MO 65270. Representative: Frank W. Taylor, Jr., 1221 Baltimore Ave., Kansas City, MO 64105. *Brass, bronze and copper products*, between Kenosha, WI on the one hand, and, on the other, Trenton, Joplin and Jefferson City, MO and Logansport, IN, and their respective commercial zones. Supporting shipper: Anaconda Industries, 1420 63rd St., Kenosha, WI 53410.

MC 53965 (Sub-5-6), filed November 5, 1980. Applicant: GRAVES TRUCK LINE, INC., 2130 South Ohio Avenue, Post Office Drawer 1387, Salina, KS 67401. Representative: William J. Bather, Executive Vice President, (same address as above), 913-827-0471. *Common, regular. General commodities, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment*, (1) Between Houston, TX and New Orleans, LA and their commercial zones over Interstate Hwy 10, serving all intermediate points and their commercial zones; and (2) Between Baton Rouge, LA and Dallas, TX and their commercial zones, from Dallas, over Interstate Hwy 20 to junction U.S. Hwy 71, then over U.S. Hwy 71 to junction U.S. Hwy 190, then over U.S. Hwy 190 to Baton Rouge and return over the same route, serving all intermediate points, and their commercial zones and serving Tyler and Kilgore, TX and their commercial zones as offroute points. (Applicant intends to tack and interline). Supporting shippers: 247.

MC 67234 (Sub-5-11), filed November 5, 1980. Applicant: UNITED VAN LINES, INC., One United Drive, Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105, No. 314-727-0777. *Computer Frames* from Pennsauken, NJ to Bristol, TN. Supporting shipper(s): Sperry Univac Corporation, Plant Traffic Manager, Univac Drive, Bristol, TN 37620.

MC 102567 (Sub-5-14TA), filed November 5, 1980. Applicant: McNAIR TRANSPORT, INC., 4295 Meadow Lane, P.O. Drawer 5357, Bossier City, LA

71111. Representative: Mr. Joe C. Day, 13403 Northwest Fwy., Suite 130, Houston, TX 77040. *Sodium Hydrosulfide, in bulk, in tank vehicles*, from Big Lake, TX, to points in the states of AL, AR, LA, MS, and TN. Supporting shipper: T & T Chemicals, Inc., P.O. Box 782, El Dorado, AR 71730.

MC 105566 (Sub-5-16TA), filed November 5, 1980. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1120, Cape Girardeau, MO 63701. Representative: William F. King, Suite 400, Overlook Bldg., 6121 Lincoln Rd., Alexandria, VA 22312. *General Commodities, except commodities in bulk, household goods as defined by the Commission and Classes A and B explosives*, between the facilities utilized by Rohm and Haas Company and its subsidiaries, on the one hand, and, on the other, points in the US, except AK and HI. Supporting shipper: Rohm and Haas Company, Independence Mall West (6th and Market), Philadelphia, PA 19105.

MC 123993 (Sub-5-27TA), filed November 5, 1980. Applicant: FOGLEMAN TRUCK LINE, INC., P.O. Box 1504, Crowley, LA. 70526. Representative: Byron Fogleman (same as applicant). (1) *Non-alcoholic beverages (except in bulk)*; (2) *Materials and supplies used in the manufacture, distribution or sale of (1) (except in bulk)* between Jefferson County, TX on the one hand, and, on the other, St. Landry Parish, LA. Supporting shipper: Seven Up R-C Bottling Company, 3375 Port Arthur Road, Beaumont, TX 77701.

MC 133194 (Sub-5-5), filed November 5, 1980. Applicant: WOODLINE MOTOR FREIGHT, INC., Airport Road, P.O. Box 1047, Russellville, AR 72801. Representative: Scotty D. Douthit, Sr., Airport Road, P.O. Box 1047, Russellville, AR 72801. *Common; Regular. (1) Cloth, dry goods or fabrics and; Clothing; (2) New and used plant equipment used in the manufacturing of clothes*, (1) From the facility of Garan, Inc. at Ozark, AR over U.S. Hwy 64 to Peebe, AR, then over U.S. Hwy 67 to Poplar Bluff, MO, then over U.S. Hwy 60 to Cairo, KY, then over U.S. Hwy 51 to the facility of Garan, Inc. at Clinton, KY and return from the facility of Garan, Inc. at Clinton, KY, over the same above route to Garan, Inc. at Ozark, AR, serving no intermediate points. (2) From Memphis, TN over U.S. Hwy 51 to Garan, Inc. at Clinton, KY, then from Garan, Inc. at Clinton, KY, over U.S. Hwy 51 to Memphis, TN, serving no intermediate points.

MC 140665 (Sub-5-45), filed November 4, 1980. Applicant: PRIME, INC., P.O. Box 4208, Springfield, MO 65804.

Representative: Ann Holcombe, P.O. Box 786, Ravenna, OH 44266. *Chemicals, plastics, and such commodities as are used, dealt or distributed by Rohm and Haas Company (except commodities in bulk), between the facilities utilized by Rohm and Haas Company at points in the U.S., on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Rohm and Haas Company, Independence Mall West (6th and Market), Philadelphia, PA 19105.*

MC 145154 (Sub-5-1TA), filed November 5, 1980. Applicant: YOUNG'S TRANSPORTATION CO., 1616 Bevis Street, Houston, TX 77008. Representative: Eric Meierhoefer and Joseph L. Steinfeld, Jr., Suite 423, 1511 K Street, NW., Washington, DC 20005. *Floor covering, materials, and supplies used in the distribution and sale thereof, from Lancaster County, PA, to points in TX. Supporting shipper: Reader's Wholesale Distributors, Inc., 1201 Naylor, Houston, TX 77002.*

MC 146055 (Sub-5-6TA), filed November 4, 1980. Applicant: DOUBLE "S" TRUCKLINE, INC., 731 Livestock Exchange Bldg., Omaha, NE 68107. Representative: James F. Crosby, James F. Crosby & Associates, 7363 Pacific St., Oak Park Office Bldg., Suite 210B, Omaha, NE 68114. *Meats and packinghouse products, from Omaha, NE to Sioux City, IA (and points in their respective commercial zones). Supporting shipper: Dubuque Packing Co., 4003 Dahlman Avenue, Omaha, NE 68107*

MC 149568 (Sub-5-1TA), filed November 5, 1980. Applicant: TRUCK SERVICE COMPANY, 2169 E. Blaine, Springfield, MO 65803. Representative: John L. Alfano, Esq., Alfano & Alfano, P.C., 550 Mamaroneck Avenue, Harrison, NY 10528. *Meat and Meat By-Products, between points in the US. Supporting shipper: Vernon Calhoun Packing Company, Palestine, TX 75801.*

MC 150425 (Sub-5-10TA), filed November 5, 1980. Applicant: TRANSCONTINENTAL EXPRESS, INC., P.O. Box D, Clarksville, TX 75426. Representative: Kim G. Meyer, P.O. Box 872, Atlanta, GA 30301. *Malt beverages, from the facilities of Miller Brewing Co., at or near Ft. Worth, TX to Jefferson County, AR. Supporting shipper: Southeastern Distributing Co., Inc., P.O. Box 8868, Pine Bluff, AR 71611.*

MC 150783 (Sub-5-15TA), filed November 4, 1980. Applicant: SCHEDULED TRUCKWAYS, INC., Post Office Box 757, Rogers, AR 72756. Representative: Ronnie Sleeth (same as applicant). *Knocked down furniture, set-up furniture, bookcases, and copier cabinets. From Conway, AR to the 48*

continental states. Supporting shipper: Tiffany Stand and Furniture Co., N. Salem Rd., Conway, Arkansas 72032.

MC 152490 (Sub-5-1TA), filed November 5, 1980. Applicant: SABINE TRUCKING, INC., 322 Freeman St., Mineola, TX 75773. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Rd., Fort Worth, TX 76112. Contract; irregular: *such commodities as are dealt in or used by retail, wholesale, and chain grocery stores, and food business houses, and materials, supplies and equipment used in connection with or incidental to the sale, manufacture, or distribution of such commodities, between points in the U.S. under continuing contract(s) with Benham & Co., Inc., Phoenix Industries, Inc., Consolidated Mills, Inc., Texas Citrus Exchange, and Texusun Corp. Supporting shippers: Benham & Co., Inc., P.O. Box 29, Mineola, TX 75773; Phoenix Industries, Inc., P.O. Box 29, Mineola, TX 75773; Consolidated Mills, Inc., P.O. Box 3666, Houston, TX 77001; Texas Citrus Exchange, P.O. Box 793, Mission, TX 78572; and Texusun Corp., P.O. Box 327, Weslaco, TX 78596.*

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-36060 Filed 11-18-80; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Applications

Correction

In FR Doc. 80-30346 appearing on page 65058 in the issue for Wednesday, October 1, 1980, make the following correction:

On page 65061, first column, under MC 123872 (Sub-3-5TA) for W & L MOTOR LINES, INC., in line 15, ". . . ME . . ." should have read ". . . NE . . .".

BILLING CODE: 1505-01-M

[Ex Parte No. 394]

Cost Ratio for Recyclables; 1980 Determination

AGENCY: Interstate Commerce Commission.

ACTION: Notice of institution of proceeding.

SUMMARY: Section 204 of the Staggers Rail Act of 1980, Pub. L. 96-448, requires rail carriers to maintain rates for the transportation of recyclable materials, other than scrap iron and steel, at revenue-to-variable cost ratio levels equal to or less than a described average revenue-to-variable cost ratio. The Commission has calculated this average cost ratio to be 150%.

DATES: Comments should be filed by December 9, 1980.

ADDRESSES: An original and 15 copies, if possible, of any comments should be sent to: Room 5340, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder or Jane F. Mackall (202) 275-7656.

SUPPLEMENTARY INFORMATION: Section 204 of the Staggers Act of 1980 requires rail carriers to reduce and maintain rates for the transportation of recyclable materials, other than recyclable or recycled iron or steel, at revenue-to-variable cost ratio levels that are equal to or less than the average revenue-to-variable cost ratio that rail carriers would be required to realize, under honest, economical, and efficient management, in order to cover total operating expenses, including depreciation and obsolescence, plus a reasonable and economic profit or return (or both) on capital employed in the business sufficient to attract and retain capital in amounts adequate to provide a sound transportation system in the United States. The carriers are required to take all necessary actions within 90 days of October 1, 1980, the effective date of the Staggers Act.

Although section 204 does not specifically direct the Commission to develop this average ratio, it does state that the Commission shall have jurisdiction to issue all orders necessary to enforce the requirements of the section. The legislative history also indicates that Congress intended the Commission to establish the standard, H.R. Rep. No. 96-1430, 96th Cong. 2d Sess. 96 (1980); S. Rep. No. 96-470, 96th Cong., 1st Sess. 18-19, 33-34, 51, 61-62 (1979). We anticipate periodic recalculations of the average ratio.

As discussed in detail below, we have developed the ratio using regional applications of Rail Form A for the year 1977. We expect the base future average ratios upon the Unified Rail Costing System. However, after considering the short time period available for the calculation of this first ratio, and the fact that the new accounting system is not yet fully operational, we have used Rail Form A applications for the latest year available.

Calculation of the Average Ratio

The proposed revenue-to-variable cost ratio was developed in the following manner. Using regional applications of Rail Form A for the year 1977, the total fully allocated costs, that is, total variable costs plus total constant costs including the allowance for cost of capital at the embedded debt rate, were

added to produce the total costs for the United States. The allowance for cost of capital at the embedded debt rate was removed to produce total operations expenses, rents, and taxes.

The current cost of capital was calculated by applying, to the net investment in transportation property, the composite cost of capital rate of 11.22 percent increased to a pre-tax figure of 18.12 percent using the statutory tax rate. The 11.22 percent rate was developed in Ex Parte No. 381, *Adequacy of Railroad Revenue (1980 Determination)*, decision served.

The current cost of capital was added to the total operating expenses, rents, and taxes to produce the total freight revenues which, after deducting operating expenses, rents, taxes, and federal income taxes would provide the included railroads with the proper cost of capital or fair return as found by the Commission in Ex Parte No. 381. The total freight revenues were then divided by the total variable costs, including the cost of capital at the embedded debt rate, to determine the average revenue-cost ratio which all traffic must produce to provide the proper cost of capital or fair return for the railroads.

Rate Reductions under Section 204

We also request comments concerning rate reduction requirements under the Staggers Act. Section 204 requires the railroads, within 90 days, to take all actions necessary to "reduce and thereafter maintain" rates for recyclables, other than scrap iron and steel, at cost ratio levels equal to or less than the defined average ratio. This wording implies that the carriers are to reduce immediately any above average recyclable rates.

However, section 204 goes on to state that as long as a rate exceeds the average cost ratio, the rate cannot be increased. This suggests that rates do not have to be decreased immediately. This interpretation is supported by the Joint Explanatory Statement of the Committee of Conference, which states the bill would prohibit increases for rates which are currently above the threshold until such time as the rate falls below the average revenue-to-variable cost threshold.

Because of the legislative history, we are inclined toward the interpretation that immediate reductions are not required. However, we invite the public to comment upon the question.

We do not expect that the proceeding will significantly affect either the quality of the human environment or conservation of energy resources.

However, comments on these issues are welcome.

Authority: 49 U.S.C. 10731(e).

Dated: November 10, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam. Chairman Gaskins concurring with a separate expression. Commissioner Gilliam dissenting in part with a separate expression. Commissioner Clapp rejecting and dissenting with a separate expression.

Agatha L. Mergenovich,
Secretary.

Chairman Gaskins, concurring:

Section 10731(e) is internally inconsistent and cannot be reconciled to give all of its provisions a fair meaning. At the same time, it speaks of rate reductions, it speaks of rates continuing to exceed the average revenue-to-variable cost ratio level. The Conference Report strongly supports the majority position that railroads can avoid enormous burden of making reductions on all their recyclable rates in excess of the prescribed ratio level. Given the level of inflation, moreover, this question will quickly become moot. Any suggestion that our action "clearly violates" Congressional intent is without foundation.

Commissioner Gilliam, dissenting in part: I find no Congressional intent to support the suggestion of the majority that railroads need to take no action to reduce rates on recyclables. The statute clearly states that necessary reductions must be made within 90 days. I do, however, agree with Commissioner Clapp that Congress allowed flexibility in making individual rate reductions for practical reasons. The railroads are still required to make the necessary reductions on an average basis within 90 days.

Commissioner Clapp, dissenting:

The suggestion that the railroads need take no action to reduce rates on recyclables clearly violates Congressional intent. I believe that the language which the majority claims is inconsistent merely evinces an awareness that railroads initially may have to make full rate reductions on an average commodity basis. If all carriers were to try to determine individual revenue to variable cost relationships on each and every particular rate, the physical burden would be enormous. Congress seems to contemplate a more practical two part approach. The railroads are to make any needed reductions on an average basis within 90 days. This may mean that some rates will exceed the average; these individual rates can only be increased thereafter to the extent that our revenue to variable cost threshold percentage exceeds the actual relationship for a particular movement.

[FR Doc. 80-36057 Filed 11-18-80; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Board for International Food and Agricultural Development; Meeting

Pursuant to Executive Order 11769 and the provisions of Section 10(a), (2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the Fortieth meeting of the Board for International Food and Agricultural Development (BIFAD) on December 5, 1980.

The purpose of the meeting is to receive and discuss the report of the Internal Staff Work Group on AID-University Relations; receive and discuss staff recommendations on Women in Development; receive and discuss reports of the Joint Research Committee (JRC); receive and discuss reports of the Joint Committee for Agricultural Development (JCAD); and meet with the BIFAD/Support Staff to discuss staff actions and operational procedures.

The meeting will begin at 9:00 a.m. and adjourn at 12:15 p.m. and will be held in Room 1107 New State Department Building, 22nd and C Streets, N.W., Washington, D.C. The meeting with the BIFAD/Support Staff will begin at 1:30 p.m. and adjourn at 3:00 p.m. This meeting will be held in Room 2248 New State Department Building, 22nd and C Streets, N.W., Washington, D.C. The meetings are open to the public. Any interested person may attend, may file written statements with the Board before or after the meetings, or may present oral statements in accordance with procedures established by the Board, and to the extent the time available for the meetings permit. An escort from the "C" Street Information Desk (Diplomatic Entrance) will conduct you to the meeting room.

Dr. Erven J. Long, Coordinator Title XII Strengthening Grants and University Relations, Development Support, Agency for International Development (AID), is designated as A.I.D. Advisory Committee Representative at this meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, State Department, International Development Cooperation Agency, Washington, D.C. 20523, or telephone him at (703) 235-8929.

Dated: November 13, 1980.

Dr. Erven J. Long,

A.I.D. Advisory Committee Rep., Board for International Food and Agricultural Development.

[FR Doc. 80-36013 Filed 11-18-80; 8:45 am]

BILLING CODE 4710-02-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 303-TA-14 (Final)]

Plastic Animal Identification Tags From New Zealand

AGENCY: United States International Trade Commission.

ACTION: Institution of a final countervailing duty investigation.

SUMMARY: As a result of the affirmative preliminary determination on October 28, 1980, by the United States Department of Commerce that there is a reasonable basis to believe or suspect that benefits are granted by the Government of New Zealand with respect to the manufacture, production, or exportation of plastic animal identification tags which constitute a subsidy within the meaning of the countervailing duty law, the United States International Trade Commission (hereinafter "the Commission") hereby gives notice of the institution of investigation No. 303-TA-14 (Final) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise. Since New Zealand is not a "country under the Agreement," within the meaning of section 701(b) of the Tariff Act of 1930 (hereinafter "the Act"), the Commission's investigation is being conducted pursuant to section 303 of the Act, as amended by section 103 of the Trade Agreements Act of 1979. For purposes of this investigation, the term "plastic animal identification tags" means plastic animal identification tags, provided for in item 666.00 of the Tariff Schedules of the United States (TSUS). This investigation will be conducted according to the provisions of Part 207 of the Commission's Rules of Practice and Procedure (19 CFR 207, 44 FR 76457).

EFFECTIVE DATE: October 28, 1980.

FOR FURTHER INFORMATION CONTACT:

Ms. Judith Case, Staff Investigator, Office of Investigations, U.S. International Trade Commission, Room 350, 701 E Street NW., Washington, D.C. 20436; telephone (202) 523-0339.

SUPPLEMENTARY INFORMATION: On September 15, 1980, the Commission

unanimously determined, on the basis of the information developed during the course of investigation No. 303-TA-14 (Preliminary), that there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, by reason of imports of plastic animal identification tags from New Zealand, provided for in item 666.00 of the TSUS, upon which a subsidy is allegedly provided. As a result of the Commission's determination, the Department of Commerce (the administering authority) continued its investigation into the question of subsidized sales. Unless the investigation is extended, the final determination by the Department of Commerce of whether subsidies are being provided by the Government of New Zealand will be made not later than January 8, 1981.

WRITTEN SUBMISSIONS: Any person may submit to the Commission a written statement of information pertinent to the subject of this investigation. A signed original and nineteen (19) true copies of each submission must be filed at the Office of the Secretary, U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436, on or before January 27, 1981. All written submissions, except for confidential business data, will be available for public inspection.

Any submission of business information for which confidential treatment is desired shall be submitted separately from other documents. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6).

A staff report containing preliminary findings of fact will be available to all interested parties on January 12, 1981.

PUBLIC HEARING: The Commission will hold a public hearing in connection with this investigation on January 30, 1981, in the Hearing Room of the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436, beginning at 10:00 a.m., e.s.t. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m., e.s.t.), January 12, 1981. All persons desiring to appear at the hearing and make oral presentations must file prehearing statements and should attend a prehearing conference to be held at 10:00 a.m., e.s.t., on January 14, 1981, in Room 117 at the U.S.

International Trade Commission Building. Prehearing statements must be filed on or before January 27, 1981. For further information concerning the conduct of the investigation, hearing procedures, and rules of general applications, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and C (19 CFR 207), and Part 201, Subparts A through E (19 CFR 201).

The Commission has waived Commission rule 201.12(d) as amended, "Submission of prepared statements," in connection with this investigation. This rule stated that "Copies of witnesses' prepared statements should be filed with the Office of the Secretary of the Commission not later than 3 business days prior to the hearing and submission of such statements shall comply with sections 201.6 and 201.8 of this subpart." It is nevertheless the Commission's request that parties submit copies of witnesses' prepared testimony as early as practicable before the hearing in order to permit Commission review.

This notice is published pursuant to § 207.20 of the Commission's Rules of Practice and Procedure (19 CFR 207.20, 44 FR 76458).

Issued: November 7, 1980.

By order of the Commission.

Kenneth R. Mason,
Secretary.

[FR Doc. 80-36105 Filed 11-18-80; 8:45 am]

BILLING CODE 7020-02-M

[Termination of Investigations Nos. 701-TA-65, 66, and 67 (Preliminary)]

Leather Wearing Apparel from Brazil, Korea, and Taiwan

AGENCY: U.S. International Trade Commission.

ACTION: Termination of preliminary countervailing duty investigations.

EFFECTIVE DATE: November 6, 1980.

FOR FURTHER INFORMATION CONTACT: Vera Libeau, Office of Investigations, (202) 523-0368.

SUPPLEMENTARY INFORMATION: On October 15, 1980, following receipt of a petition filed by Ralph Edwards Sportswear, Inc., the Commission instituted preliminary countervailing duty investigations Nos. 701-TA-65, 66, 67, and 68, Leather Wearing Apparel from Brazil, Korea, Taiwan, and Uruguay. The purpose of the investigations was to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry is materially retarded, by

reason of allegedly subsidized imports from Brazil, Korea, Taiwan, and Uruguay of leather wearing apparel, provided for in item 791.76 of the Tariff Schedules of the United States. On November 6, 1980, the Commission received advice from the Department of Commerce that it was initiating an investigation solely with regard to Uruguay. Because Commerce had not initiated an investigation on Brazil, Korea, and Taiwan within the prescribed time limits and because of the request of the petitioner to withdraw that portion of its petition applying to those three countries, the Commission's investigations concerning leather wearing apparel from Brazil, Korea, and Taiwan are hereby terminated pursuant to its authority under section 207.13 of the Commission's Rules of Practice and Procedure.

Issued: November 10, 1980.

Kenneth R. Mason,
Secretary.

[FR Doc. 80-36104 Filed 11-18-80; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

Proposed Consent Decree in Action To Enjoin Violations of an NPDES Permit by American Cyanamid Company at Its Chemical Facility in Louisiana

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on November 7, 1980, a proposed consent decree in *United States v. American Cyanamid Company*, (E.D. La. No. 80-4409A(5)), was lodged with the United States District Court for the Eastern District of Louisiana. The proposed consent decree requires the defendant to meet specific effluent limitations and to construct at its Westwego, Louisiana facility a wastewater treatment system (or its equivalent) in compliance with a construction schedule as set forth in the consent decree. In addition, it provides for the payment of civil penalties to the United States ranging from \$200 to \$3,500 a day for each calendar day after the effective date of this decree that it fails to comply with this consent decree.

The Department of Justice will receive written comments relating to the proposed consent decree for a period of thirty (30) days from the date of this notice. Comments should be addressed to the Deputy Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should

refer to *United States v. American Cyanamid Company*, (E.D. La. No. 80-4409A(5)).

The proposed consent decree may be examined at the Clerk's office, U.S. Courthouse, 500 Camp Street, New Orleans, Louisiana 70130; and at the Environmental Enforcement Section, Land and Natural Resources Division of the United States Department of Justice, Room 1254, Ninth and Pennsylvania Avenue NW., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the United States Department of Justice.

Angus MacBeth,

Deputy Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 80-36106 Filed 11-18-80; 8:45 am]

BILLING CODE 4410-01-M

Immigration and Naturalization Service

Federal Advisory Committee on Immigration and Naturalization; Meeting

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice of meeting.

SUMMARY: This notice announces the meeting of the Federal Advisory Committee on Immigration and Naturalization to be held in New Orleans, Louisiana on December 11-12, 1980.

FOR FURTHER INFORMATION CONTACT:

Verne Jervis, Public Information Officer of the Immigration and Naturalization Service, Room 7056, 425 "I" Street, N.W., Washington, D.C. 20536, telephone 202/633-2648.

SUPPLEMENTARY INFORMATION AND MEETING AGENDA:

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. app. I) notice is hereby given of a meeting of the Federal Advisory Committee on Immigration and Naturalization. The meeting will start at 9:00 a.m. on Thursday, December 11, 1980 at the Postal Services Building, 701 Loyola Avenue, New Orleans, LA, conference room 9028. At 1:00 p.m. on Thursday, December 11 the meeting will be moved to conference room 14035 in the same building, and all additional sessions will be held in that room. The meeting will adjourn at 3:00 p.m. on December 11 and reconvene at 9:00 a.m. on December 12, continuing to approximately 1:00 p.m. (All Subcommittees will have work sessions

on December 11 from 3:00 p.m. to 5:00 p.m.)

Federal Advisory Committee Agenda

FAC Meeting—December 11, 1980: 9:00 a.m. to 3:00 p.m.

Call to Order and Roll Call: 9:00 a.m.

Opening remarks by Acting Commissioner David Crosland and introduction of New Orleans District Director Edwin Chauvin, Jr.: 9:30 a.m.

Review of Agenda Topics: 10:30 a.m.

Reading of Minutes: 10:45 a.m.

Staff Presentations: 11:00 a.m.

(Presentations will cover the following: Study of INS by the President's Management Improvement Council, operation of the INS Office of Professional Responsibility, employment of minorities at INS, and INS Outreach program.)

Subcommittee Meetings: 3:00 p.m.

Friday, December 12, 1980:

Meeting reconvenes: 9:00 a.m.

Subcommittee reports: 9:15 a.m.

Public Commentary: 10:15 a.m.

Formal Recommendations to the Commissioner: 11:15 a.m.

Meeting Adjourns: 1:00 p.m.

Attendance is open to the interested public on a space available basis only. Persons or groups wishing to attend the meeting or to make public commentary should address a letter to Mr. Verne Jervis at the address below: U.S. Immigration and Naturalization Service, 425 I Street, N.W., Room 7056, Washington, DC 20536.

Dated: November 3, 1980.

David Dixon,

Acting Commissioner.

[FR Doc. 80-36010 Filed 11-18-80; 8:45 am]

BILLING CODE 4410-10-M

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

Meeting

November 13, 1980.

Pursuant to Sec. 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), notice is hereby given that the National Advisory Committee on Oceans and Atmosphere (NACOA) will hold a 2 day meeting on Monday and Tuesday, December 1-2, 1980. The meetings will be held in Room 416, Page Building 1, 2001 Wisconsin Ave., NW., Washington, DC 20235. The meetings will commence at 9:00 a.m. on Monday and 9:30 a.m. on Tuesday.

The Committee, consisting of 18 non-Federal members, appointed by the President from academia, business and industry, State and local government, and public interest groups, was established by Congress by Public Law 95-63, on July 5, 1977. Its duties are to: (1) undertake a continuing review, on a

selective basis, of national ocean policy, coastal zone management, and the status of the marine and atmospheric science and service programs of the United States; (2) advise the Secretary of Commerce on the carrying out the programs of the National Oceanic and Atmospheric Administration; and (3) submit an annual report to the President and to Congress setting forth an assessment, on a selective basis, of the status of the Nation's marine and atmospheric activities, and submit such other reports as may from time to time be requested by the President or Congress.

The tentative meeting schedule follows:

December 1, 1980.

Plenary Session

9:00 a.m.-9:30 a.m.

- Opening Remarks—Chairman

9:30 a.m.-10:30 a.m.

- Federal Ocean Program

Speaker: Martin Belsky, Assistant Administrator for Policy and Planning, National Oceanic and Atmospheric Administration

10:30 a.m.-Noon

- Law of the Sea

Speaker: Ambassador Elliot Richardson

Noon-1:30 p.m.

Lunch

1:00 p.m.-4:00 p.m.

Panel Meetings

- Support for Atmospheric Research Facilities, Louis J. Battan, Chairman
- Topic: Computer Facilities

Invited Participants: Dr. Walter Macintyre, National Center for Atmospheric Research; Dr. Fred Mosher, Space Science and Engineering Center, University of Wisconsin-Madison; Dr. James O'Brien, Florida State University; Dr. Joseph Smagorinsky, Director, Geophysical Fluid Dynamics Laboratory, National Oceanic and Atmospheric Administration

1:00 p.m.-4:00 p.m.

- Fisheries—Activity Planning Jay G. Lanzillo & George Tapper, Co-Chairmen, Room B-100

4:00 p.m.-5:00 p.m.

Plenary Session

- National Oceanic Satellite System (NOSS)

5:00 p.m.

Adjourn

December 2, 1980

8:30 a.m.-9:30 a.m.

Closed Session (Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409)

9:30 a.m.-10:30 a.m.

- Steering Committee Meeting

10:30 a.m.-Noon

Panel Meetings

- Waste Management Report—John Knauss, Chairman

Noon-1:00 p.m.

Lunch

Plenary Session

1:00 p.m.-1:30 p.m.

- Hydrological Services Project Proposal—Paul Bock

1:30 p.m.-2:00 p.m.

- Underutilized Species—George Tapper

2:00 p.m.-3:00 p.m.

- Panel Reports

3:00 p.m.

Adjourn

Persons desiring to attend will be admitted to the extent seating is available. Persons wishing to make formal statements should notify the Chairman in advance of the meeting. The Chairman retains the prerogative to impose limits on the duration of oral statements and discussions. Written statements may be submitted before or after each session.

Additional information concerning this meeting may be obtained through the Committee's Executive Director, Steven N. Anastasion, whose mailing address is: National Advisory Committee on Oceans and Atmosphere, 3300 Whitehaven Street, NW., (Room 436, Page Building #1), Washington, DC 20235. The telephone number is (202) 653-7818.

Steven N. Anastasion,

Executive Director.

[FR Doc. 80-36930 Filed 11-18-80; 8:45 am]

BILLING CODE 3510-12-M

Meeting

Pursuant to Sec. 10(a)(2), of the Federal Advisory Committee Act, 5 U.S.C. (App. 1976), notice is hereby given that the Independent Areas Task Force Subgroup on Ocean Operations and Services of the National Advisory Committee on Oceans and Atmosphere (NACOA) will meet Thursday and Friday, December 4-5, 1980. The Committee will meet in room B-100, Page Building Number 1, 2001 Wisconsin Avenue, NW., Washington, D.C.

The Thursday session will convene at 9:00 a.m. and the Friday session at 8:30 a.m. All sessions will be open to the public and will adjourn at 4:30 p.m. each day.

NACOA has initiated a study to formulate national goals and objectives for the oceans in the decade of the 1980's and beyond. To support the conduct of this study, the Secretary of Commerce has established an Independent Areas Task Force (IATF) for NACOA. The IATF, with its subgroups, will be responsible for the preparation of preliminary recommendations in the area of energy, fisheries, marine transportation, ocean minerals, ocean operations and services, pollution, and waste management.

This final meeting of the IATF Subgroup on Ocean Operations and Services will be for the purpose of reviewing the first draft of the subgroup's final report. This report details the findings of the subgroup which are based on previous meetings and makes recommendations for national goals and objectives for ocean operations and services during the next decade and beyond.

Ocean services are defined as the informational services provided by government and private industries including navigational and bathymetric maps and charts, navigational aids, advisory services, weather services, tide, current, and other oceanic information.

Persons desiring to attend will be admitted to the extent seating is available. Persons wishing to make formal statements should notify the Chairperson of the Subgroup on Ocean Operations and Services, Dr. Robert M. White, in advance of the meeting. The Chairperson retains the prerogative to impose limits on the duration of oral statements and discussion. Written statements may be submitted before or after each session.

Additional information concerning this meeting may be obtained through the NACOA Executive Director, Mr. Steven N. Anastasion, or CDR Carl A. Moritz, Staff Director for the Operations and Services Subgroup. The mailing address is: NACOA, 3300 Whitehaven Street, NW. (Suite 438, Page Building #1), Washington, DC 20235. The telephone number is (202) 653-7818.

Steven N. Anastasion,

Executive Director.

[FR Doc. 80-36031 Filed 11-18-80; 8:45 am]

BILLING CODE 3510-12-M

NATIONAL COMMISSION ON SOCIAL SECURITY

Meeting

November 13, 1980.

The National Commission on Social Security will hold a public meeting at the Capital Hilton, at 16th and K Streets, N.W., Washington, D.C. on December 4, 5 and 6, 1980. The meeting on December 4 and 5 will be in the Caucus I Room, the meeting on December 6 will be in the Continental Room. The purpose of the meeting is to discuss drafts for the final report of the Commission.

The meeting will begin each day at 9:00 a.m. and continue until the Commission business is completed, but no later than 5:00 p.m. The meeting will be open to the public, in accordance

with the Federal Advisory Committee Act.

Additional information about the meeting may be obtained from the Commission office: Room 125—Pension Building, 440 G Street, N.W., Washington, D.C. 20218, Phone: (202) 376-2622.

Francis J. Crowley,
Executive Director.

[FR Doc. 80-36025 Filed 11-18-80; 8:45 am]

BILLING CODE 6820-AC-M

NATIONAL SCIENCE FOUNDATION

Subcommittee on Metallurgy, Polymers, and Ceramics of the Materials Research Advisory Committee; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Metallurgy, Polymers, and Ceramics of the Materials Research Advisory Committee.

Date: December 8 and 9, 1980.

Time: 9:00 am-5:00 pm each day.

Place: Room 543, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550.

Type of Meeting: Open, December 8, 9:00 am-3:00 pm. Closed, December 8, 3:00 pm-5:00 pm. Open, December 9, All day.

Contact Person: Dr. Ben A. Wilcox, Metallurgy, Polymers, and Ceramics Section, Room 411, National Science Foundation, Washington, D.C. 20550, Telephone: (202) 357-9789.

Purpose of Subcommittee: To provide advice and recommendations concerning support of research in Metallurgy, Polymers, and Ceramics.

Agenda: December 8, 1980

9:00 AM: Introductory remarks, comments about the Mathematical and Physical Sciences Directorate, the Division of Materials Research and the Metallurgy, Polymers, and Ceramics Section.

10:00 AM: Report by NSF staff on issues discussed at previous meeting. Report and discussion of the Polymers Program Oversight.

12:00 PM: Lunch.

1:00 PM: Polymers Program Oversight, continued.

3:00 PM: Optional Closed Session. This session is tentatively scheduled to be closed only if (and is limited to) the Committee wishes to discuss specific grants and declinations. Otherwise, the session will be open or not held at all.

5:00 PM: Adjourn.

Agenda: December 9, 1980

9:00 AM: Discussion of Research Trends and Opportunities in Metallurgy, Polymers, and Ceramics.

12:00 PM: Lunch.

1:00 PM: Research Trends and Opportunities, continued.

2:00 PM: Discussion of Instrumentation Needs in Metallurgy, Polymers, and Ceramics.

3:30 PM: Other business, information items.

5:00 PM: Adjourn.

Reason for Closing: The Subcommittee will be reviewing grants and/or declination jackets which contain the names of applicant institutions and principal investigators and privileged information contained in declined proposals. This session will also include a review of the peer review documentation pertaining to applicants. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b (c), Government in the Sunshine Act.

Authority To Close: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

November 14, 1980

[FR Doc. 80-36090 Filed 11-18-80; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on the NRC Reactor Safety Research Program; Meeting

The ACRS Subcommittee on the NRC Reactor Safety Research Program will hold a meeting on December 3, 1980 in Room 1046, 1717 H St., NW, Washington, DC to discuss new developments in the NRC Reactor Safety Research Program since the issuance of the ACRS Report to NRC (NUREG-0699); NRC's long-range Reactor Safety Research Program plans; preliminary draft chapters or sections of the ACRS Annual Report to Congress on NRC's FY-82 Reactor Safety Research Program Budget; the Department of Energy's (DOE) Light-Water Reactor Safety Technology Program and the associated budget. Notice of this meeting was published October 24.

In accordance with the procedures outlined in the *Federal Register* on October 7, 1980, (45 FR 66535), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that

appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions during which the Subcommittee finds it necessary to discuss the ACRS Annual Report to Congress on the NRC Reactor Safety Research Program Budget. One or more closed sessions may be necessary to discuss such information (SUNSHINE ACT EXEMPTION (9)(B)). To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows:

Wednesday, December 3, 1980, 8:30 a.m. until the conclusion of business:

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC and DOE Staffs, their consultants, and other interested persons.

Further information about topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Sam Duraiswamy (telephone 202/634-3267) between 8:15 and 5:00 p.m., EST.

The ACRS is required by Section 5 of the 1978 NRC Authorization Act to review the NRC Reactor Safety Research Program and Budget and to report the results of the review to Congress. In order to perform this review, the ACRS must be able to engage in frank discussions with members of the NRC Staff and such discussions would not be possible if held in public sessions. I have determined, therefore, in accordance with Subsection 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463), that, should such sessions be required, it is necessary to close portions of this meeting to prevent frustration of the above stated aspect of the ACRS' statutory responsibilities. The authority for such closure is 5 U.S.C. 552b(c)(9)(B).

Dated: November 14, 1980.

John C. Hoyle,
Advisory Committee, Management Officer.

[FR Doc. 80-36067 Filed 11-18-80; 8:45 am]

BILLING CODE 7590-01-M

Draft Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a proposed revision to a guide in its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft, temporarily identified by its task number, RS 709-4 (which should be mentioned in all correspondence concerning this draft guide), is a proposed revision to Regulatory Guide 1.80 and is entitled "Preoperational Testing of Instrument and Control Air Systems." This guide is being developed to describe a method acceptable to the NRC staff for complying with the Commission's regulations with respect to verifying by preoperational testing the proper operation of instrument and control air systems, as well as certain compressed gas systems, and the proper operation of loads supplied by such systems during operation at normal system pressures and to ensure the operability of functions important to safety in the event that system pressure is lost or reduced below normal operating level.

When the active version of this guide is issued following public comment, it will be designated 1.68.23 and added to the 1.68 subseries of guides that provide detailed guidance in the conduct of initial test programs for specific systems important to safety in water-cooled reactor power plants.

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft

value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Comments on both drafts should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by January 12, 1981.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 12th day of November 1980.

For the Nuclear Regulatory Commission.

Guy A. Arlotto,

Director, Division of Engineering Standards,
Office of Standards Development.

[FR Doc. 80-36068 Filed 11-18-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-338 OL & 50-339 OL]

Virginia Electric and Power Co. (North Anna Power Station, Units 1 and 2); Reconstitution of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority conferred by 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has reconstituted the Atomic Safety and Licensing Appeal Board for this operating license proceeding to consist of the following members:

Alan S. Rosenthal, Chairman
Dr. John H. Buck
Dr. Lawrence R. Quarles

Dated: November 12, 1980.

C. Jean Bishop,

Secretary to the Appeal Board.

[FR Doc. 80-36066 Filed 11-18-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-409-SC; Prov. Op. Lic. DPR-45]

Dairyland Power Cooperative (La Crosse Boiling Water Reactor); Prehearing Conference and Evidentiary Hearing

(November 12, 1980.)

Notice is hereby given that, in accordance with the Licensing Board's Memorandum and Order dated November 12, 1980, a prehearing conference in this show-cause proceeding will be held on December 16, 1980, commencing at 9:30 a.m. at Hall of the Presidents, Cartwright Center, University of Wisconsin at La Crosse, La Crosse Wisconsin 54601. The conference is being convened to discuss any motions for summary disposition which may be filed, the manner in which the parties propose to respond to questions which are to be posed by the Licensing Board, and further scheduling for the proceeding.

Notice is also given that the evidentiary hearing in this proceeding will commence immediately following the prehearing conference, on December 16, 1980, at the Hall of the Presidents. The evidentiary hearing will continue on December 17, from 9:00 a.m. until 12:00 noon, at the same location. To the extent necessary, further sessions will be held on December 17, from 1:00 p.m. until 5:00 p.m., and on December 18, beginning at 9:00 a.m., at Room 303, Cartwright Center, University of Wisconsin at La Crosse. The hearing will be conducted by an Atomic Safety and Licensing Board consisting of Dr. George C. Anderson, Mr. Ralph S. Decker, and Mr. Charles Bechhoefer, Chairman.

A Notice of Opportunity for Hearing in this proceeding was published on March 3, 1980 (45 FR 13850). Petitions for leave to intervene filed by Anne K. Morse on behalf of the Coulee Region Energy Coalition (CREC), and by Frederick M. Olsen III were subsequently granted, those intervenors were consolidated, and a Notice of Hearing was published on October 7, 1980 (45 FR 66537).

The sole issue to be considered by the Licensing Board at the evidentiary hearing commencing on December 16, 1980, is the risk to the public health and safety of extending *pendente lite* the February 25, 1981 date by which a site dewatering system is currently required to be designed and installed (as further described in the Licensing Board's Memorandum and Order dated November 12, 1980). Direct testimony on that issue must be filed by December 5, 1980.

Any person who has not been admitted as a party to this proceeding may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.715(a). A person making a limited appearance may make an oral or written statement on the record. He or she does not become a party but may state a position and raise questions which he or she would like to have answered, to the extent that the questions are within the purview of matters which may be considered in this show-cause proceeding. Limited appearances will be permitted at the commencement of the evidentiary hearing on December 16 and (if necessary) beginning at 9:00 a.m. on December 17, within such limits and on such conditions as may be fixed by the Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, ATTN: Docketing and Service Branch.

Dated at Bethesda, Maryland, this 12th day of November 1980.

For the Atomic Safety and Licensing Board.
Charles Bechhoefer,
Chairman

[FR Doc. 80-35999 Filed 11-18-80; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 21785 (70-6363)]

Appalachian Power Co.; Proposed Issuance and Sale of Short-Term Notes to Banks and Commercial Paper

November 13, 1980.

Notice is hereby given that Appalachian Power Company ("Appalachian"), 40 Franklin Road, Roanoke, Virginia 24009, an electric utility subsidiary company of American Electric Power Company, Inc. ("AEP"), a registered holding company, has filed with this Commission a post-effective amendment to its application in this proceeding pursuant to Section 6(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50(a)(5) promulgated thereunder regarding the proposed transactions. All interested persons are referred to the amended application, which is summarized below, for a complete description of the proposed transactions.

By orders in this proceeding dated December 21, 1979, February 21, 1980, and May 30, 1980 (HCAR Nos. 21353, 21445, and 21599), Appalachian was authorized to issue and sell, from time to time prior to January 1, 1981, short-term

notes to a group of banks and commercial paper to a dealer in an amount of up to \$200,000,000 outstanding at any one time, such notes and commercial paper maturing no later than June 30, 1981.

It is now proposed that such notes to banks and commercial paper be issued and sold from time to time prior to January 1, 1982, with a maturity no later than June 30, 1982. Appalachian has credit arrangements totaling \$463,770,000 with 94 banks. This represents an increase of \$25,000,000 in lines of credit shared with affiliates, including Columbus and Southern Ohio Electric Company. Fees and balances for shared lines of credit are borne by Appalachian and participating affiliates in proportion to their respective projected maximum need for such credit facilities. Although the shared lines of credit have been increased, the participation by Columbus and Southern Ohio Electric Company will have the effect of reducing the fees and balances to be borne by Appalachian.

The proceeds of the notes to banks and commercial paper will be used to pay the general obligations of Appalachian, including expenses incurred in its various construction projects. The estimated cost of its construction program for 1981 is approximately \$215,000,000.

The fees and expenses to be incurred in connection with the proposed transactions are estimated not to exceed \$500. It is stated that the State Corporation Commission of Virginia has jurisdiction over the proposed transactions and that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than December 10, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment to the application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as now amended or as it may be further amended, may be

granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 80-36081 Filed 11-18-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21787 (70-6511)]

Kentucky Power Co.; Proposed Issuance and Sale of Short-Term Notes to Banks

November 13, 1980.

Notice is hereby given that Kentucky Power Company ("Kentucky"), 1701 Central Avenue, Ashland, Kentucky 41101, an electric utility subsidiary company of American Electric Power Company, Inc. ("AEP"), a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 6(b) of the Act and Rule 50(a)(2) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete description of the proposed transactions.

Kentucky proposes to issue and sell short-term notes to a group of banks in an aggregate amount not to exceed \$50,000,000 outstanding at any one time. As a September 18, 1980, Kentucky had \$13,250,000 aggregate principal amount of short-term debt outstanding. It is proposed that the notes to banks be issued from time to time and be renewed from time to time prior to January 1, 1982, as funds may be required, provided that none of such notes shall mature later than June 30, 1982.

Kentucky has established lines of credit with 20 banks under which it may borrow an aggregate amount not to exceed \$371,900,000 outstanding at any one time. The fees and balances for these lines of credit are borne by Kentucky and participating affiliates of Kentucky in proportion to their respective projected maximum need for such credit facilities. The addition of

Columbus and Southern Ohio Electric Company, an affiliate of Kentucky, to this participation has the effect of reducing the relative amount of such fees and balances to be borne by Kentucky.

Each note will be prepayable by Kentucky at any time without premium or penalty. It is stated that the effective cost of money to Kentucky under any of its arrangements with the various banks, assuming full use of the line of credit, would not exceed 125% of the prime commercial rate in effect from time to time, or not more than 17.5% on the basis of a prime commercial rate of 14%.

The proceeds of the short-term notes will be added to the general funds of Kentucky and used to pay the general obligations of Kentucky, including expenses incurred in its various construction projects and for other corporate purposes. The estimated cost of its construction program for the year 1981 is approximately \$47,000,000.

Kentucky requests that the certificates of notification under Rule 24 with respect to issuance by Kentucky of the notes to banks be filed quarterly.

The fees and expenses to be incurred in connection with the proposed transactions are estimated at \$2,500. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested persons may, not later than December 10, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application as filed or as it may be amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the

hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 80-36082 Filed 11-18-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 17289 (SR-NASD-79-5)]

National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change

November 13, 1980.

On May 14, 1979, the National Association of Securities Dealers, Inc. ("NASD") 1735 K Street N.W., Washington, D.C. 20006, filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b-4 thereunder, copies of a proposed rule change that adds a new Section 37 to Article III of the NASD's Rules of Fair Practice concerning standards and filing requirements for member advertising and sales literature. The proposal eliminates the requirement that advertisements be submitted for review within five days of use and adopts a routine "spot check" procedure for advertisements and sales literature. However, members who have not filed advertisements with the NASD for a period of at least one year are required to file with the NASD at least ten days prior to use for a period of one year. In addition, sales literature and advertisements relating to investment companies are required to be filed with the NASD within ten days of use. The proposed rule change also codifies in Section 37 the NASD's Advertising Interpretation under Article III Section I of the Rules of Fair Practice.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 15891, June 1, 1979) and by publication in the *Federal Register* (44 FR 33206, June 8, 1979). The first amendment to the proposal was submitted on August 21, 1980. Notice of the amendment was given by publication of a Commission Release (Securities Exchange Act Release No. 17098, August 28, 1980) and by publication in the *Federal Register* (45 FR 58994, September 5, 1980). The NASD submitted a second amendment to the proposal on October 7, 1980 which provided notice of final action on the prior amendment by the NASD Board of Governors.

All written statements with respect to the proposed rule change that were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552) were made available to the public at the Commission's Public Reference Room.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD, and in particular, the requirements of Section 15A, and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 80-36078 Filed 11-18-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21786; (70-6519)]

System Fuels, Inc., et al.; Proposal To Make Short-Term Bank Borrowings Pursuant to a Loan Agreement; Guarantee of Such Borrowings by Parent Companies

November 13, 1980.

In the matter of System Fuels, Inc., Noro Plaza, 666 Poydras, New Orleans, Louisiana 70130, Arkansas Power & Light Company, First National Building, Little Rock, Arkansas 72203, Louisiana Power & Light Company, 142 Delaronde Street, New Orleans, Louisiana 70174, Mississippi Power & Light Company, Electric Building, Jackson Mississippi 39205, and New Orleans Public Service, Inc., 317 Baronne Street, New Orleans, Louisiana 70112; (70-6519).

Notice is hereby given that System Fuels, Inc. ("SFI"), a fuel procurement subsidiary of Arkansas Power & Light Company, Louisiana Power & Light Company, Mississippi Power & Light Company and New Orleans Public Service, Inc. (collectively, the "operating companies"), each a public utility subsidiary of Middle South Utilities, Inc. a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a), 7 and 12(b) of the Act and Rules 45 and 50(a)(2)

promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

By order dated August 1, 1979 (HCAR No. 21171) SFI was authorized to make unsecured borrowings through December 8, 1980 of up to \$75,000,000 at any one time outstanding under a line of credit with Hibernia National Bank in New Orleans ("Hibernia"). As of August 31, 1980, SFI's borrowings under this line of credit aggregated \$3,900,000 in principal amount, and it is anticipated that at maturity on December 8, 1980, such borrowings will aggregate approximately \$45,000,000 in principal amount. In order to provide SFI funds with which to (a) repay its borrowings from Hibernia at maturity, (b) finance a portion of SFI's fuel oil inventory, (c) finance SFI's acquisition of natural gas and (d) finance other expenditures in connection with its fuel supply program, and to meet SFI's commitment to endeavor to obtain funds for its corporate expenditures from external sources under advantageous arrangements in lieu of making borrowings from its parent companies, SFI proposes to enter into a Loan Agreement ("loan agreement") with Citibank, N.A. ("bank").

Pursuant to and subject to the limitations set forth in the loan agreement, SFI will be entitled to borrow and reborrow from the bank, and the bank will commit itself to lend to SFI, during the period commencing on the effective date of the loan agreement ("effective date") and terminating on December 31, 1982 ("termination date"), up to an aggregate principal amount at any one time outstanding not to exceed \$60,000,000 ("commitment"); provided that at no time shall the bank be obligated to make loans to SFI under the loan agreement in an aggregate principal amount at any one time outstanding in excess of the borrowings base. As used in the loan agreement, the borrowing base is defined to mean an amount equal to 85 percent of the net book value of the assets from time to time owned by SFI exclusive of leasehold improvements and construction work in progress ("collateral").

The proposed borrowings will be in addition to other borrowing arrangements currently maintained by SFI for the purpose of securing funds from external sources to finance its fuel supply business and which have previously been authorized by this Commission.

Borrowings by SFI from the bank pursuant to the loan agreement will be

evidenced by a single master note of SFI ("note"), representing the obligation of SFI to pay the amount of the commitment or, if less, the aggregate unpaid principal amount of all loans made by the bank thereunder, plus accrued interest. The date and amount of each loan made by the bank, and the date and amount of each payment by SFI of principal of the loans under the loan agreement, will be recorded by the bank on a schedule annexed to the note. The note will be payable to the order of the bank, be dated the effective date, be stated to mature on the termination date, and bear interest on the unpaid principal amount thereof at a rate per annum equal to the rate of interest announced publicly by the bank in New York, New York from time to time as the bank's base rate. Based on the commitment fee of $\frac{1}{2}$ of 1% per annum on the average daily unused portion of the commitment (estimated solely for purposes of the following computation at \$24,000,000), and based upon the bank's base rate of $15\frac{1}{2}$ % per annum in effect on November 10, 1980, SFI estimates that its cost of money in respect of the proposed borrowings as of that date would be 15.8% per annum.

The loan agreement will provide that SFI may at any time, without premium or penalty, prepay the note, in whole or in part, and that if at any time the unpaid principal amount of the note then outstanding exceeds the borrowing base, SFI will be required, without premium or penalty, to prepay an amount not less than the amount by which such unpaid principal amount of the note then exceeds the borrowing base.

For the bank's commitment under the loan agreement, SFI will pay to the bank a commitment fee for the period from the effective date to the termination date or earlier termination of the commitment, computed at the rate of one-half of one percent per annum on the average daily unused portion of the commitment. The loan agreement will also provide that SFI may, at its option, terminate early, or reduce, from time to time, the commitment.

Pursuant to the terms of the loan agreement, SFI will covenant and agree to keep the collateral free and clear of all liens and encumbrances, except certain permitted encumbrances specified therein, and will further covenant and agree, but only upon receipt of 60 days' prior written notice from the bank, to grant to the bank, to the extent permitted by applicable laws, a first priority, perfected security interest (or other analogous security device) in the collateral, subject to prior

permitted encumbrances, to secure the performance by SFI of its obligations to the bank under the loan agreement and the note.

In addition, and as an inducement to the bank to enter into these financing arrangements with SFI, the operating companies proposed to join with SFI as parties to the loan agreement and to covenant and agree with the bank, severally in accordance with their present respective shares of ownership of the common stock of SFI, that they will take any and all action as, from time to time, may be necessary to keep SFI in a sound financial condition and to place SFI in a position to discharge, and to cause SFI to discharge, its obligations to the bank pursuant to the loan agreement and the note. The operating companies will further covenant and agree that they will, unless otherwise consented to in writing by the bank, maintain their respective shares of ownership of the common stock of SFI, for the period during which any portion of the principal amount of the note remains unpaid, in approximately the same proportions as currently held by them.

The terms of the loan agreement will not require that SFI maintain compensating balances with the bank. It is expected, however, that, over the term of the loan agreement, SFI will maintain working balances with the bank, although fluctuations in these balances will not reflect or depend upon fluctuations in the amount of loans to SFI outstanding.

A statement of the fees, commission and expenses to be incurred in connection with the proposed transaction. It is stated that no state or federal regulatory authority, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than December 5, 1980 request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration as filed or as it may be amended, may be permitted to become effective as provided in Rule 23

of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 80-36083 Filed 11-18-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-17285; File No. SR-NYSE-80-35]

Proposed Rule Change by New York Stock Exchange, Inc.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on September 29, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change clarifies the authority of the Exchange to impose the sanctions contained in this rule upon a member organization that has been restricted without waiting for the 15 consecutive business day requirement to elapse.

The text of the proposed rule change is attached as Exhibit I-A.

Purpose of Proposed Rule Change

The purpose of the proposed rule change is to clarify the intent of the Exchange in originally adopting the Rule on July 15, 1971. Specifically, the rule change would clarify that rule 326 (a) and (b) requires a member organization that carries customer accounts to cease expansion of or reduce business if certain specific conditions relating to their financial responsibilities (326(a)(1)-(4) and (b)(1)-(4)) have existed for more than 15 consecutive business days. One such condition enumerated in the Rule (Rule 326(a)(5) and (b)(5)) is when the Exchange restricts the member organization. The intent of this provision was that the cessation/restriction sanctions under the Rule would become effective for a member organization that has been so

restricted without having to wait for 15 days to elapse. The other specifically enumerated financial responsibility criteria (326(a)(1)-(4) and (b)(1)-(4)) are subject to daily fluctuation, so that the 15-day requirement would prevent a member organization from being sanctioned for temporary non-compliance.

Since adoption, the rule has been interpreted to reflect this.

Basis Under the Act

- (i) Inapplicable
- (ii) Inapplicable
- (iii) Inapplicable
- (iv) Inapplicable

(v) The proposed rule change is consistent with Section 6(b)(5) in that it protects investors and the public interest by insuring that member organizations which carry customer accounts comply with certain minimum financial standards or be required to cease expansion of or reduce their business.

- (vi) Inapplicable
- (vii) Inapplicable
- (viii) Inapplicable

The proposed amendments are consistent with Section 6(c)(3)(A) which permit a national securities exchange to condition the membership of a broker or dealer that does not meet such standards of financial responsibility as are prescribed by the rules of the Exchange.

Comments Received from Members, Participants or Others

No comments were solicited or received on the proposed rule change.

Burden on Competition

None.

On or before December 24, 1980, or within such longer period: (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

- (A) by order approve such proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be

available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before December 10, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

November 12, 1980.

Exhibit I-A.—*New language in italics*—Deleted language in brackets [].

Growth Capital Requirement

Rule 326(a). A member organization which carries customer accounts shall not expand its business during any period in which:

(1) any of the following conditions continue to exist, [which period will commence as soon as such condition has existed] for more than 15 consecutive business days provided that such condition has been known to the Exchange for at least five (5) consecutive business days: [1] *a* Its net capital is less than 150 percent of its net capital minimum dollar amount requirement or [some] *such* greater percentage *thereof* as may from time to time be designated by the Exchange, or,

[2] *b* If subject to [this] *the aggregate indebtedness* requirement under SEC Rule 15c3-1, its aggregate indebtedness is more than 1,000 per centum of its net capital, or

[3] *c* If in lieu of [(2)] *b* above, the specified percentage of the aggregate debit items in the Formula for Determination of Reserve Requirements for Brokers and Dealers under SEC Rule 15c3-3 (the alternative net capital requirement) is applicable, its net capital is less than 7 percent of the aggregate debit items thereunder, or

[4] *d* *The deduction of capital* withdrawals including maturities scheduled during the next six months and/or the special deduction from net capital set forth in Rule 431 (c)(8)(C)(iii) would result in *any one of the* conditions described in 1a, [2]1b or [3]1c [above,] of Section (a) of this Rule, or

[5] (2) The Exchange restricts the member organization.

Business Reduction Capital Requirement

Rule 326(b). A member organization which carries customer accounts shall forthwith reduce its business;

(1) to a point enabling its available capital to meet the standards set forth in 1a, 1b or 1c of Rule 326(a) [whenever] if any of the following conditions continue to exist for more than fifteen (15) consecutive business days provided that such condition has been known to the Exchange for at least five (5) consecutive business days: [1] a Its net capital is less than 125 percent of its net capital minimum dollar amount requirement or [some] such greater percentage thereof as may from time to time be designated by the Exchange, or

[2] b If subject to [this] the aggregate indebtedness requirement under SEC Rule 15c3-1, its aggregate indebtedness is more than 1,200 per centum of its net capital, or

[3] c If in lieu of [(2)] b above, the specified percentage of the aggregate debit items in the Formula for Determination of Reserve Requirements for Brokers and Dealers, under SEC Rule 15c3-3 (the alternative net capital requirement) is applicable, its net capital is less than 6 percent of the aggregate debit items thereunder, or

[4] d If the deduction of capital withdrawals including maturities scheduled during the next six months and/or the special deduction from net capital set forth in Rule 431 (c)(8)(C)(iii) would result in any one of the conditions described in 1a, [2]1b or [3]1c [above] of Section (b) of this Rule or

[5] (2) When the Exchange restricts the member organization.

[FR Doc. 80-36079 Filed 11-18-80; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #1925; Amendment #1]

Oklahoma; Declaration of Disaster Loan Area

The above numbered Declaration (See 45 FR 69331) is hereby amended by including the following language as reason for the disaster declaration:

77 counties and adjacent counties in the State of Oklahoma constitute a disaster area because of drought and extreme heat causing damage to agriculture, livestock, and products * * *

All other information remains the same, i.e., the termination date for filing applications for physical damage is close of business March 24, 1981, and for filing applications for economic injury is close of business on June 24, 1981.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: October 7, 1980.

A. Vernon Weaver,
Administrator.

[FR Doc. 80-36084 Filed 11-18-80; 8:45 am]

BILLING CODE 8025-01-M

[License No. 02/02-0417]

Cornwall Capital Corp.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1980)), under the name of Cornwall Capital Corporation (Applicant), for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended, and the Rules and Regulations promulgated thereunder.

The Applicant is incorporated under the laws of the State of Delaware, and it will commence operations with a capitalization of \$1,000,000.

The Applicant will have its place of business at 237 Mamaroneck Avenue, White Plains, New York 10605, and it intends to conduct operations primarily in the Westchester County area of the State of New York. Applicant expects to broad financing policy spread between equity and loans to concerns. The officers, directors, and ten percent (10%) or more stockholders of the Applicant will be:

Kenneth R. Corn, 11 LeGrande Ave., Greenwich, NY 12834 (Chairman of the Board, Secretary and 10% Stockholder)
Robert A. Wall, 26 Farragut Rd., Scarsdale, NY 10583 (President, Treasurer, Director and 10% Stockholder)
Barry J. Gordon, 63 Karol Place, Muttontown, NY 11753 (Director)

It is anticipated that there will be no more than 35 shareholders, none of which (other than Messrs. Corn and Wall) will own 10% or more of the securities of the Applicant.

Matters involved in SBA's consideration of the application include the general business reputation of the owner and management, and the probability of successful operations of the new company, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than December 4, 1980, submit to SBA, in writing, relevant comments on the proposed licensing of this company. Any such communication should be addressed to: Acting Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: November 10, 1980.

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 80-36015 Filed 11-18-80; 8:45 am]

BILLING CODE 8025-01-M

[Proposed License No. 02/02-0421]

Intercontinental Capital Funding Corp.; Application for a License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et seq.*), has been filed by Intercontinental Capital Funding Corporation (Applicant), with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1980).

The officers, directors and stockholders of the Applicant are as follows:

Jane Y. Mallare, 66, 4th St., New Manila, Quezon City, Manila, Philippines (Director)
James S. Yu, 103 Birch Rd., Briarcliff Manor, NY 10519 (President/Treasurer, Director and General Manager)
Chris Wu, 69-01 35th Ave., Jackson Heights, NY 11372 (Vice President and Director)

The Applicant, a New York corporation, with its principal place of business at 80 Mott Street, New York, New York 10013, will begin operations with \$520,000 of paid-in capital and paid-in surplus derived from the sale of 250 shares of common stock.

The Applicant will conduct its activities principally in the State of New York. Applicant intends to provide assistance to qualified socially or economically disadvantaged small business concerns.

As a small business investment company under Section 301(d) of the Act, the Applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the Applicant include the general business reputation and

character of the proposed owners and management, and the probability of successful operation of the Applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 15 days from the date of publication of this notice, submit to SBA written comments on the proposed Applicant. Any such communication should be addressed to the Acting Associate Administrator for Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in New York, New York.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: November 10, 1980.

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 80-36016 Filed 11-18-80; 8:45 am]

BILLING CODE 8025-01-M

[License No. 02/02-0416]

Kwiat Capital Corp.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1980)), under the name of Kwiat Capital Corporation (Applicant), for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended, and the Rules and Regulations promulgated thereunder.

The Applicant is incorporated under the laws of the State of New York, and it will commence operations with a capitalization of \$510,000.

The Applicant will have its place of business at 576 Fifth Avenue, New York, New York 10036, and it intends to conduct operations primarily in the State of New York. Applicant expects to emphasize equity investments with particular attention to growth situations. The officers, directors, and ten percent (10%) or more stockholders of the Applicant will be:

David Solomon Kwiat, 369 Everit Ave., Hewlett Harbour, NY 11557 (President and Director)

Lowell Marc Kwiat, 1365 York Ave., New York, NY 10021 (Executive Vice President, General Manager, Director and 33⅓%)
Sheldon Frank Kwiat, 15 Cypress Ave., Kings Point, NY 11024 (Secretary and 33⅓%)
Carol Susan Greene, 8 Meryl Lane, Great Neck, NY 11024 (Director and 33⅓%)
Jeffrey Marc Greene, 8 Meryl Lane, Great Neck, NY 11024 (Director)

Matters involved in SBA's consideration of the application include the general business reputation of the owner and management, and the probability of successful operations of the new company, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than 15 days from the date of publication of this Notice in the **Federal Register**, submit to SBA, in writing, relevant comments on the proposed licensing of this company. Any such communication should be addressed to: Acting Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: November 10, 1980.

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 80-36017 Filed 11-18-80; 8:45 am]

BILLING CODE 8025-01-M

[License No. 09/09-5268]

Lucky Star Investment Co.; Issuance of a License To Operate as a Small Business Investment Company

On August 1, 1980, a notice was published in the **Federal Register** (45 FR 51328), stating that Lucky Star Investment Company, located at 667 Grant Avenue, San Francisco, California 94108, has filed an application with the Small Business Administration (SBA), pursuant to Section 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1980)) for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended.

Interested persons were given until the close of business on August 16, 1980, to submit written comments on the application to the SBA.

Notice is hereby given that no written comments were received and, having considered the application and all other pertinent information, the SBA approved the issuance of License No. 09/09-5268 on October 23, 1980, to Lucky Star Investment Company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: November 10, 1980.

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 80-36018 Filed 11-18-80; 8:45 am]

BILLING CODE 8025-01-M

[Proposed License No. 09/09-0275]

Oxford Capital Corp.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration pursuant to Section 107.102 of the SBA Regulations (13 CFR 107.102 (1980)), by Oxford Capital Corporation, 3700 Wilshire Boulevard, Los Angeles, California 90010, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 *et seq.*).

The proposed officers, directors and stockholders are:

Name and address	Title	Per- cent of own- ship
Joseph N. Mitchell, 3700 Wilshire Blvd., Los Angeles, CA 90010.	Chairman of the Board.....	
Richard Lorenz, 3700 Wilshire Blvd., Los Angeles, CA 90010.	President, General Manager and Director.....	
Marcus Loew, 3700 Wilshire Blvd., Los Angeles, CA 90010.	Vice President, Treasurer and Director.....	
Dennis D. Mendel, 3700 Wilshire Blvd., Los Angeles, CA 90010.	Secretary and Director.....	
Dale Madoff, 3700 Wilshire Blvd., Los Angeles, CA 90010.	Assistant Secretary.....	
R. T. McNamar, 3700 Wilshire Blvd., Los Angeles, CA 90010.	Director.....	
Beneficial Standard Corp., 3700 Wilshire Blvd., Los Angeles, CA 90010.		100

Beneficial Standard Corporation is a holding company whose subsidiaries are engaged primarily in the life insurance (including accident and health) and property-casualty insurance businesses.

The Applicant (a Delaware corporation) proposes to begin operations with a capitalization of \$1 million. They propose to concentrate their investments in insurance related activities, low technology firms and real estate build-and-sell operations.

Matters involved in SBA's consideration of the application include the general business reputation and

character of the proposed owner and management, and the probability of successful operations of the new company under this management, including adequate profitability and financial soundness, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments on the proposed SBIC to the Acting Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this Notice will be published in a newspaper of general circulation in Los Angeles, California.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: November 10, 1980.

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 80-36019 Filed 11-18-80; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice CM-8/345]

Secretary of State's Advisory Committee on Private International Law, Study Group on International Child Abduction; Meeting

There will be a meeting of the Study Group on International Child Abduction, a study group of the subject Advisory Committee, at 9:30 a.m. on Saturday, December 6, 1980 in Room 219, Hastings College of Law, 198 McAllister Street, San Francisco, California. Members of the general public may attend up to the capacity of the meeting room and participate in the discussion subject to instructions of the Chairman.

The purpose of the meeting will be to review the final text of the Convention on the Civil Aspects of International Child Abduction adopted by the Fourteenth Session of the Hague Conference on Private International Law and to consider in that connection questions of possible United States adherence to that convention.

In order to facilitate arrangements concerning attendance at this meeting, it would be appreciated if members of the public planning to attend would contact Ms. Rochelle Renna, Office of the Assistant Legal Adviser for Private

International Law, Department of State, (telephone: (202) 632-8134).

Peter H. Pfund,

Assistant Legal Adviser for Private International Law and Vice-Chairman, Advisory Committee on Private International Law.

November 12, 1980

[FR Doc. 80-36054 Filed 11-18-80; 8:45 am]

BILLING CODE 4710-08-M

[Public Notice CM-8/344]

Study Group 1 of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group 1 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on December 10, 1980 at 9:30 a.m. in the Forum Room, National Telecommunications and Information Administration, Department of Commerce, 1325 G Street, NW, Washington, D.C.

Study Group 1 deals with matters relating to efficient use of the radio frequency spectrum, and in particular, with problems of frequency sharing, taking into account the attainable characteristics of radio equipment and systems; principles for classifying emissions; and the measurement of emission characteristics and spectrum occupancy. The purpose of the meeting will be to consider documents for submission to the international meeting in 1981 and preparation of U.S. input to Interim Working Party 1/3 on the review of Study Group 1 activities.

Members of the general public may attend the meeting and join in the discussion subject to instructions of the Chairman. Requests for further information should be directed to Mr. Gordon Huffcutt, State Department, Washington, D.C. 20520; telephone (202) 632-2592.

Dated: November 6, 1980.

Gordon L. Huffcutt,

Chairman, U.S. CCIR National Committee.

[FR Doc. 80-36053 Filed 11-18-80; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM-8/346]

Study Group 4 of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group 4 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on December 17, 1980 at 10:00 a.m. in the Theater on the first floor of the

Communications Satellite Corporation Building, 950 L'Enfant Plaza, SW., Washington, D.C.

Study Group 4 deals with matters relating to systems of radiocommunications for the fixed service using satellites. The purpose of the meetings is to review results of the international meeting of Study Group 4 (October-November) and establish a program of work in preparation for the next international meeting in 1981.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Requests for further information should be directed to Mr. Gordon Huffcutt, State Department, Washington, D.C. 20520, telephone (202) 632-2592.

Dated: November 13, 1980.

Gordon L. Huffcutt,

Chairman, U.S. CCIR National Committee.

[FR Doc. 80-36055 Filed 11-18-80; 8:45 am]

BILLING CODE 4710-07-M

Sunshine Act Meetings

Federal Register

Vol. 45, No. 225

Wednesday, November 19, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

[M-299 (1 amendment), Nov. 10, 1980]

CIVIL AERONAUTICS BOARD.

Addition and deletion of item's to the November 13, 1980 Board meeting.

TIME AND DATE: 9 a.m., November 13, 1980.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

Deleted: 4. Docket 29044, Amendments to the Board's smoking rule, Part 252. (BCP, BDA, OGC)

Added: 26. Docket 38605, Application of Air Europe Limited for an initial foreign air carrier permit to engage in charter foreign air transportation of persons, property and mail between the United States and the United Kingdom. (BIA)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary (202) 673-5068.

[S-2104-80 Filed 11-14-80; 5:44 pm]

BILLING CODE 6320-01-M

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., Friday, November 28, 1980.

PLACE: 2033 K Street NW., Washington, D.C. eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-2107-80 Filed 11-17-80; 1:10 pm]

BILLING CODE 6351-01-M

3

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11:30 a.m., November 25, 1980.

PLACE: 2033 K Street NW., Washington, D.C., Fifth floor hearing room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Status report on Investigation.

CONTACT PERSON FOR MORE

INFORMATION: Jane Stuckey, 254-6314.

[S-2110-80 Filed 11-17-80; 3:55 pm]

BILLING CODE 6351-01-M

4

FEDERAL COMMUNICATIONS COMMISSION.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Tuesday, November 18, 1980, starting at 9:30 A.M., in Room 856, at 1919 M Street NW., Washington, D.C.

Agenda, Item Number, and Subject

General—1—**Title:** Order in Gen. Docket 79-263, amendment of search fee provision of the Freedom of Information rules (§ 0.466). **Summary:** The Commission will consider adoption of rules it proposed on October 24, 1979 (44 FR 62304). The proposed rules provide for a recalculation of the FOIA search fee based on hourly labor costs for agency employees and require advance payment in appropriate circumstances.

General—2—Memorandum Opinion and Order amending Section 15.309(b) of the Commission's Rules relating to the operation field disturbance sensors.

Private Radio—1—**Title:** Notice of Proposed Rulemaking to revise Part 97, the Amateur Radio Service Rules, into "plain language." **Summary:** The FCC will consider whether to adopt a proposal to revise the Amateur Radio Services Rules into "plain language." The existing Amateur Radio Services Rules are unnecessarily complex and difficult to understand. The purpose of this proposed revision is to make these rules less complex and more understandable by those persons they affect.

Private Radio—2—**Title:** Tactile Paging. **Summary:** The Commission will consider adoption of a Report and Order making two frequencies, 35.02 and 43.64 MHz, available for paging and response techniques, by persons having hearing deficiencies, visual impairments, or other physical handicaps.

Common Carrier—1—Further Notice of Rulemaking in Docket No. 79-35 requesting public comment on whether the Communications Satellite Corporation (Comsat) should be permitted to include,

for rate setting purposes, the net expenses and assets of its INMARSAT investment in the revenue requirements for its INTELSAT services.

Assignment and Transfer—1—**Title:** Unrelated requests for issuance of tax certificates in connection with: (1) the assignment of license of AM station KZON, Santa Maria, California from Leonard Kesselman to De Oro Broadcasting Company, Inc. (2) the assignment of license of AM station KIQI, San Francisco, California from San Francisco Wireless Talking Machine Company, Incorporated to Oro Spanish Broadcasting, Inc. **Summary:** The Chief, Broadcast Bureau, pursuant to delegated authority, granted the applications to assign the licenses for AM stations KZON and KIQI on April 21, 1980 and September 5, 1980, respectively. The assignors have requested tax certificates pursuant to the Commission's *Statement of Policy on Minority Ownership of Broadcasting Facilities*, 68 FCC 2d 979 (1978).

Assignment and Transfer—2—**Title:** Request for a tax certificate in connection with the sale of FM station WTWf, Moncks Corner, South Carolina, from Double R Broadcasting, Inc. to Nuance Corporation. **Summary:** On October 20, 1980, the Chief, Broadcast Bureau, pursuant to delegated authority, granted the application for the voluntary assignment of license of FM station WTWf, Moncks Corner, South Carolina. The Commission will consider whether to issue a tax certificate requested by the assignor, Double R Broadcasting, Inc., pursuant to the Commission's *Statement of Policy on Minority Ownership of Broadcasting Facilities*, 68 FCC 2d 979 (1978).

Assignment and Transfer—3—**Title:** Application (File No. BTCT-800227KF) for Commission consent to the voluntary transfer of control of Suburban Broadcasting Corporation, licensee of Station WSNL-TV, Channel 67, Smithtown, New York, from Robert Rosen, et al., to Wometco-Long Island, Inc. **Summary:** Wometco Enterprises, Inc., which owns and holds a subscription television ("STV") franchise for WWHT(TV), Channel 68, Newark, New Jersey, seeks to acquire WSNL-TV, Channel 67 Smithtown, (Long Island), New York and operate it as a satellite of WWHT(TV). There is Grade B overlap between the two stations, which together cover much of the New York City market. The Commission will consider whether the circumstances in this case justify a grant of the application under the satellite exception to the TV multiple ownership rule (§ 73.636, Note 9).

Renewal—1—**Title:** Application for renewal of license of Station WNMB, North Myrtle Beach, South Carolina. **Summary:** Commission considers the short-term license renewal application of Station

WNMB filed by North Myrtle Beach Broadcasting Corporation.

Renewals—2—Title: License renewal applications of Mission Central Company, as supplemented, for Station KONO, San Antonio, Texas. *Summary:* The Commission considers the employment practices of Station KONO during the 1971 to 1974 license term and its imposition of employment reporting conditions, pursuant to instructions from the Court of Appeals in *Bilingual Bicultural Coalition on Mass Media v. F.C.C.*, 193 U.S. App. D.C. 236, 595 F. 2d 621 (1978).

Renewals—3—Title: 1977 Renewal Application of Faith Center, Inc. for WHCT-TV, Hartford, Connecticut. *Summary:* The Commission considers the designation for hearing of Faith Center, Inc.'s renewal application for Station WHCT-TV, Hartford, Connecticut.

Renewals—4—Title: Petition of the Mississippi Authority for Educational Television for Partial Reconsideration of the Commission's July 24, 1980 Order granting license renewals. *Subject:* The Commission reviews a petition for partial reconsideration filed by the Mississippi Authority for Educational Television in which it challenges the requirement that it submit employment data with its next renewal applications.

Aural—1—Title: Applications by the Far East Broadcasting Company, Inc. to license AM Station KSAI, Susupe, Saipan and H. Scott Killgore d/b/a Micronesian Broadcasting Corporation to license Stations WSZE(AM), WSZE-FM, and WSZE-TV, Navy Hill (Rapagan), Saipan. *Summary:* The Commission will consider applications to license broadcast facilities in the Northern Mariana Islands Commonwealth.

Aural—2—Title: Application by Oakdale Broadcasting Company, Inc. for additional time to complete construction of new FM Station WIXO, McComb, Mississippi (File No. BMPH-790712AG). *Summary:* The Commission will consider an informal objection to this application by Donald G. Manuel.

Aural—3—Title: In re Applications of Allegan County Broadcasters, Inc. and Charles Hedstrom and Ralph Trieger, d/b/a Pinehurst Broadcasting, for a new FM station at Otsego or Plainwell, Michigan, respectively. *Summary:* The Commission considers the above application by the applicant for Otsego, and a drop-out agreement by the applicants concerning the Plainwell application.

Aural—4—Title: Memorandum Opinion and Order in re application of Bay Cities Communications Corp. for nighttime authority for daytime AM station WTJZ, Newport News, Virginia; request for waiver of Section 73.24(j) of rules filed by applicant; and petition to deny application filed by Hampton Roads Broadcasting Corp., licensee of AM station WGH, Newport News, Virginia. *Summary:* The Commission considers the above matters, which relate primarily to the proposal's failure to provide interference-free service to all of Newport News.

Broadcast—1—Title: Request by NBC for waiver of the "prime time access rule" in

connection with its telecast of the NFL championship Super Bowl game on Sunday, Jan. 25, 1981. *Summary:* The Commission considers the question of whether to grant NBC's request for waiver of the prime time access rule so as to permit prime time on Sunday evening, Jan. 25, to be devoted entirely to NBC programs—the Super Bowl, a post-game show, and another entertainment program.

Broadcast—2—Title: Consideration of Policy questions affecting the regulation of international broadcasting. *Summary:* This item involves consideration of policies governing (1) the licensing of international broadcast stations and (2) participation in international meeting assigning frequency hours to international broadcast stations.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 254-7674.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[S-2105-80 Filed 11-17-80; 11:39 am]

BILLING CODE 6712-01-M

5

FEDERAL COMMUNICATIONS COMMISSION.

The Commission will hold a Closed Meeting on the subjects listed below on Tuesday, November 18, 1980, following the Open Meeting which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, N.W., Washington, D.C.

Agenda, Item Number, and Subject

Hearing—1—Petition for reconsideration filed by Walton Broadcasting, Inc., in the Tucson, Arizona, KIKX renewal proceeding (Docket No. 20287).

Hearing—2—Application for Review of the Hearing Designation Order (Mimeo Number BC-34025, released July 29, 1980) in the West Salem, Wisconsin, comparative FM proceeding (BC Docket Nos. 80-413 and 80-414).

Hearing—3—Motion for Stay, Motions to Strike, and Petition for Reconsideration of the Commission's Memorandum Opinion and Order in the Harriman, Tennessee, FM proceeding (Docket No. 19812).

Hearing—4—Petitions to reopen the record, motion to delete issue, and Petition to intervene in the Mt. Holly, New Jersey, AM comparative renewal proceeding. (Docket Nos. 20738-9).

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: November 14, 1980.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[S-2106-80 Filed 11-17-80; 11:39 am]

BILLING CODE 6712-01-M

6

FEDERAL DEPOSIT INSURANCE CORPORATION.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, November 24, 1980, to consider the following matters:

Disposition of minutes of previous meetings.

Request by the Comptroller of the Currency for a report on the competitive factors involved in a proposed consolidation of Fidelity National Bank of Pa., Williamsport, Pennsylvania, and Commonwealth Bank and Trust Company, Muncy, Pennsylvania.

Recommendation with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Bronson, Bronson & McKinnon, San Francisco, California, in connection with the receivership of United States National Bank, San Diego, California.

Memorandum and Resolution re: Amendments to FDIC's Regulations Governing Applications—Public Access to Application Files.

Memorandum re: Proposed Revision to FDIC Employee Grievance Procedures.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors. Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550-17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: November 17, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,
Executive Secretary.

[S-2109-80 Filed 11-17-80; 3:34 pm]

BILLING CODE 6714-01-M

7

FEDERAL DEPOSIT INSURANCE CORPORATION.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, November 24, 1980, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of Title 5, United States Code, to consider the following matters:

Applications for Federal deposit insurance:

- The Bank of Prescott, a proposed new bank, to be located at 1040 Willow Creek Road, Prescott, Arizona.
- Wilshire State Bank, a proposed new bank, to be located at 699 South Vermont Avenue, Los Angeles, California.
- Morgan County Community Bank, a proposed new bank, to be located at 1342 South Main Street, Jacksonville, Illinois.
- First American State Bank, a proposed new bank, to be located at the intersection of Harrison Avenue and Belmont Street, Centralia, Washington.
- Fairhaven Savings Bank, Fairhaven, Massachusetts, an operating noninsured mutual savings bank.
- New Bedford Five Cents Savings Bank, New Bedford, Massachusetts, an operating noninsured mutual savings bank.
- Watertown Savings Bank, Watertown, Massachusetts, an operating noninsured mutual savings bank.

Request pursuant to section 19 of the Federal Deposit Insurance Act for consent to service of a person convicted of an offense involving dishonesty or a breach of trust as a director, officer, or employee or an insured bank:

Name of person and of bank authorized to be exempt from disclosure pursuant to the provisions of subsection (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6)).

Request for rescission of conditions imposed in granting consent to change location:

First City Bank of Lewisville, Lewisville, Texas.

Notice of Acquisition of Control:
Richfield State Bank, Richfield, Wisconsin.

Applications for consent to merge an establish branches:

Central Carolina Bank & Trust Company, Durham, North Carolina, an insured State

nonmember bank, for consent to merge, under its charter and title, with Burlington National Bank, Burlington, North Carolina, and for consent to establish the three offices of Burlington National Bank as branches of the resultant bank.

The Merchants Bank, Burlington, Vermont, an insured State nonmember bank, for consent to merge, under its charter and title, with Catamount Bank, North Bennington, Vermont, and for consent to establish the seven offices of Catamount Bank as branches of the resultant bank.

Application for consent to purchase assets and assume liabilities and establish a branch:

Bank of Pennsylvania, Reading, Pennsylvania, an insured State nonmember bank, for consent to purchase the assets of and assume the liability to pay deposits made in The First National Bank of Honey Brook, Honey Brook, Pennsylvania, and for consent to establish the sole full-service office of The First National Bank of Honey Brook as a branch of the resultant bank.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

- Case No. 44,468-L—Franklin National Bank, New York, New York.
- Case No. 44, 532-SR—American Bank & Trust Company, New York, New York.
- Case No. 44,554-L—Fidelity Bank, Utica, Mississippi.
- Case No. 44,556-L—American City Bank and Trust Company, National Association, Milwaukee, Wisconsin.
- Case No. 44,558-L—Northern Ohio Bank, Cleveland, Ohio.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

Reports of committees and officers:

Report of actions taken by the Division of Liquidation under delegated authority—Releases of Collateral for Fair Market Value.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: November 17, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,
Executive Secretary.

[S-2109-80 Filed 11-17-80; 3:34 pm]

BILLING CODE 6714-01-M

8

FEDERAL RESERVE SYSTEM.

TIME AND DATE: 11:30 a.m., Friday, November 14, 1980. The business of the Board requires that this meeting be held with less than one week's advance notice to the public, and no earlier announcement of the meeting was practicable.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involved individual Federal Reserve System employees.

CONTACT PERSON FOR MORE

INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: November 14, 1980.

Theodore E. Allison,
Secretary of the Board.

[S-2101-80 Filed 11-14-80; 5:01 pm]

BILLING CODE 6210-01-M

9

FEDERAL RESERVE SYSTEM.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Notice forwarded to Federal Register on Monday, November 10, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Wednesday, November 19, 1980.

CHANGES IN THE MEETING: Deletion of the following open item(s) from the agenda:

Proposed revision of Regulation Z (Truth in Lending) in connection with the passage of the Truth in Lending Simplification and Reform Act. (Proposed earlier for public comment; Docket No. R-0288).

This matter will be rescheduled for an open meeting on Wednesday, November 26, 1980.

CONTACT PERSON FOR MORE

INFORMATION: Mr. Joseph R. Coyne,
Assistant to the Board (202) 452-3204.

Dated: November 14, 1980.

Theodore E. Allison,
Secretary of the Board.

[S-2102-80 Filed 11-14-80; 5:01 pm]

BILLING CODE 6210-01-M

10

FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10:00 a.m., Monday,
November 24, 1980.

PLACE: 20th Street and Constitution
Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Appointment of new members to the Consumer Advisory Council.
2. Personnel actions (appointment, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any Agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE

INFORMATION: Mr. Joseph R. Coyne,
Assistant to the Board (202) 452-3204.

Dated: November 14, 1980.

Theodore E. Allison,
Secretary of the Board.

[S-2103-80 Filed 11-14-80; 5:01 pm]

BILLING CODE 6210-01-M

Wednesday
November 19, 1980

Designated Partner

Part II

Nuclear Regulatory Commission

Fire Protection Program for Operating Nuclear Power Plants

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Fire Protection Program for Operating Nuclear Power Plants

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its regulations to require certain provisions for fire protection in operating nuclear power plants. This action is being taken to upgrade fire protection at nuclear power plants licensed to operate prior to January 1, 1979, by requiring resolution of certain contested generic issues in fire protection safety evaluation reports.

EFFECTIVE DATE: February 19, 1981.

Note.—The Nuclear Regulatory Commission has submitted this rule to the Comptroller General for review as may be appropriate under the Federal Reports Act, as amended (44 U.S.C. 3512). The date on which the reporting requirement of this rule becomes effective, unless advised to the contrary, reflects inclusion of the 45-day period that statute allows for such review (44 U.S.C. 3512(c)(2)).

FOR FURTHER INFORMATION CONTACT: David P. Notley, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, phone 301-443-5921 or Robert L. Ferguson, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, phone 301-492-7096.

SUPPLEMENTARY INFORMATION: On May 29, 1980, the Nuclear Regulatory Commission published in the *Federal Register* (45 FR 36082) a notice of proposed rulemaking inviting written suggestions or comments on the proposed rule by June 30, 1980. The notice concerned proposed amendments to 10 CFR Part 50, "Domestic Licensing of Production and Utilization Facilities," which would require certain minimum provisions for fire protection in nuclear power plants operating prior to January 1, 1979. Fifty-one comment letters were received regarding the proposed amendments. A number of comments pertained to specific requirements in the proposed Appendix R, and these will be dealt with below. However, there were three substantive contentions which were raised by many of the commenters. These three comments are summarized as follows:

1. Most commenters stated that the 30 day comment period was too short to permit adequate detailed response and

that the comment period should have been extended.

The Commission does not agree. The NRC has been developing fire protection requirements since 1975. The NRC published comprehensive fire protection guidelines, Branch Technical Position BTP APCSB 9.5-1, and its Appendix A in 1976. Licensees have compared their fire protection programs against these guidelines and have discussed their deviations from these guidelines with the NRC staff for the past four years during the NRC's fire protection reviews of operating reactors. A Safety Evaluation Report and, in most cases, supplements to the Safety Evaluation Report, have been issued for each operating reactor. These reports describe fire protection alternatives that have been proposed by the licensee and found acceptable by the staff as well as unresolved fire protection issues remaining between the staff and the licensee. Proposed Appendix R provided the Commission's requirements for resolving those issues. Thus, it concerns only a limited number of issues derived from the use of the earlier guides. The Commission believes that a 30-day comment period was adequate under these circumstances.

2. Many licensees questioned the need for backfitting all the requirements of Appendix R. They commented that they had previously complied with staff fire protection recommendations in "good faith" and have committed to or completed certain modifications. They contend that the staff has properly determined that these modifications provide at least the level of fire protection described by the guidance contained in Appendix A to Branch Technical Position BTP APCSB 9.5-1. They also contend that these modifications provide a level of protection at least equivalent to that contained in the proposed rule. They express the concern that the proposed rule was written in such specific language that fire protection issues that were thought closed would be reopened and new, but not necessarily better, modifications would be required. These modifications could be accomplished only by the expenditure of considerable engineering, design, and construction effort and at great undue expense. The commenters request that the requirements in the proposed rule be rewritten to specify only the general requirements of what needs to be accomplished.

These comments raise three related issues. The first relates to the need for specific requirements. The general requirements relating to fire protection

are already set forth in General Design Criterion 3 of Appendix A to 10 CFR Part 50 and in the NRC guidance documents. These general provisions gave rise to a number of disputes over whether specific methods adequately accomplished the intended goal. The proposed rule is intended to provide sufficient specific guidance to ensure satisfactory resolution of these issues. Thus, reverting to generalized guidance would not accomplish the intended purpose of the proposed rule.

The second issue involved some instances in which the specific wording used resulted in unnecessary and unintended restrictions. For example, the proposed rule called for a "fresh water" supply. For firefighting purposes, brackish water is satisfactory and a "fresh" water supply is unnecessary. Similarly, the proposed rule called for an "underground" yard fire main loop. Often portions of a fire main loop run above ground in and as they enter structures. The Commission had not intended to prohibit running portions of a fire main loop above ground. Other similar changes are discussed in Section III, "Specific Requirements," of this preamble.

The third issue relates to imposition of requirements on plants with presently installed or with existing commitments to install fire protection features previously determined by the staff to satisfy the guidance of Appendix A to BTP APCSB 9.5-1. The Commission generally agrees that, except for three sections that will be back fitted, Appendix R should not be retroactively applied to features that have been previously approved by the NRC staff as satisfying the provisions of Appendix A to BTP APCSB 9.5-1.

The NRC staff had intended, in its original proposal for Appendix R, that the requirements be applicable only for the resolution of unresolved disputed fire protection features. Thus, the staff had not intended the provisions of Appendix R to require modification of previously approved features. This was not clearly described in the proposed rule as published for comment. In fact, the Supplementary Information published with the proposed rule explicitly indicated that "[a]ll licensees will be expected to meet the requirements of this rule, in its effective form, including whatever changes result from public comments."

In determining whether the specific requirements of Appendix R should be imposed on licensees with presently installed or existing commitments to install fire protection features previously determined to satisfy Appendix A to Branch Technical Position BTP APCSB

9.5-1, it is important to recognize that Appendix R addresses only a portion of the specific items contained in the more comprehensive document, Branch Technical Position BTP APCSB 9.5-1 and its Appendix A. Appendix A to BTP APCSB 9.5-1 has been the basic fire protection guidance used by the staff in their fire protection reviews conducted for all operating plants during the past several years. For many plants, licensees proposed systems and features that satisfactorily achieved the fire protection criteria set forth in Appendix A to BTP APCSB 9.5-1 and began to promptly implement such features and systems.

Satisfactory features and systems are already in place and in operation in many plants. There is a reasonable degree of uniformity among most of these approved features for all facilities since they were reviewed against the same criteria of Appendix A to BTP APCSB 9.5-1. In general, the features previously approved by the NRC staff in its reviews of fire protection using the criteria of Appendix A to BTP APCSB 9.5-1 provide an equivalent level of fire protection safety to that provided under the specific provisions of Appendix R. Thus, the further benefit that might be provided by requiring that previously approved features be modified to conform to the specific language set forth in Appendix R is outweighed by the overall benefit of the early implementation of such previously approved features, which in many cases are currently being installed.

Nevertheless, as a result of its continuing review of fire protection matters, the NRC staff has indicated to the Commission that there are requirements in three sections in which the protection afforded by Appendix R over and above that previously accepted, may be desirable. The Commission has decided that these requirements should be retroactively applied to all facilities. This decision is not meant to reflect adversely on previous licensee or staff evaluations; rather its purpose is to take fully into account the increased knowledge and experience developed on fire protection matters over the last several years.

The first of these sections is related to fire protection features for ensuring that systems and associated circuits used to achieve and maintain safe shutdown are free from fire damage. Appendix A to BTP APCSB 9.51 permits a combination of fire-retardant coatings and fire detection and suppression systems without specifying a physical separation distance to protection redundant systems (Appendix A, D.1(2)), and such

arrangements were accepted in some early fire protection reviews. As a result of some separate effects tests, the staff changed its position on this configuration, and subsequent plans have been required to provide additional protection in the form of fire barriers or substantial physical separation for safe shutdown systems. No credit for such coatings as fire barriers is allowed by Section III.G of Appendix R. Appendix A to Branch Technical Position BTP APCSB 9.5.1 and the proposed Appendix R recognized that there were plant-unique configurations that required fire protection features that are not identical to those listed in Section III.G of Appendix R. For these cases, fire protection features were developed by the licensee and described in a fire hazards analysis. Some of these arrangements were accepted by the staff as providing equivalent protection to the requirements of Section III.G to Appendix R.

Requirements that account for all of the parameters that are important to fire protection and consistent with safety requirements for all plant-unique configurations have not been developed. In light of the experience gained in fire protection evaluations over the past four years, the Commission believes that the licensees should reexamine those previously approved configurations of fire protection that do not meet the requirements as specified in Section III.G to Appendix R. Based on this reexamination the licensee must either meet the requirements of Section III.G of Appendix R or apply for an exemption that justifies alternatives by a fire hazard analysis. However, based on present information, the Commission does not expect to be able to approve exemptions for fire-retardant coatings used as fire barriers.

The second relates to emergency lighting. Section III.J of Appendix R calls for 8-hour emergency lighting, whereas in some cases less than 8-hour emergency lighting has been accepted as satisfying Appendix A to BTP APCSB 9.5-1. While an adequate level of safety may be provided by less than an 8-hour supply, an 8-hour system would provide added protection and would generally involve only a small cost. The Commission therefore believes that licensees should upgrade the previously approved facilities to satisfy the 8-hour lighting requirement of Appendix R.

The third relates to protection against fires in noninerted containments involving reactor coolant pump lubrication oil (Section III.O of Appendix R). The proposed rule

permitted either an oil collection system or a fire suppression system. The staff has also accepted an automatic fire suppression system as an acceptable method of fire protection for this application. The Commission has concluded that fire suppression systems do not give adequate protection for fires that may be induced by seismic events. The Commission therefore believes that previously approved suppression systems should be replaced with oil collection systems that can withstand seismic events.

The technical basis on which these three sections are based are further discussed in Section III, "Specific Requirements," of this preamble.

3. Most commenters stated that the implementation schedule contained in the proposed rule is impossible to meet for any of the operating plants. The commenters further stated that if the implementation schedule in the effective rule is the same as that in the proposed rule, the Commission must be prepared to either shutdown each operating nuclear power plant, or process exemption requests.

The commenters then concluded that the implementation schedule should be rewritten to allow an adequate time period for compliance. The proposed rule stated that "all fire protection and modifications identified by the staff as necessary to satisfy Criterion 3 of Appendix A to this part, whether contained in Appendix R to this part or in other staff fire protection guidance (except for alternate or dedicated shutdown capability) shall be completed by November 1, 1980 unless, for good cause shown, the Commission approves an extension," (proposed paragraph 50.48 1.(c)). The Commission went on to state its intention in the Statement of Consideration to the rule that "... no plant would be allowed to continue to operate after November 1, 1980, or beyond an extended date approved by the Commission, unless all modifications (except for alternate or dedicated shutdown capability) have been implemented."

The Commission has reconsidered the implementation schedule and has determined that it should be modified for the following reasons:

- After reviewing the comments and the information developed as a result of completion of fire reviews over the past 6 months, the staff has informed the Commission that the date of November 1, 1980, is not possible because the effective date of the rule will be after that date.

- The staff has informed the Commission that it would expect virtually all licensees to request

exemptions if the new implementation dates do not provide an appropriate period of time for complying with the requirements of Appendix R. The time and manpower resources needed by the licensees to prepare such requests and by the staff to formulate recommendations on these requests is not warranted from the standpoint of timely fire protection improvement.

- The revised implementation schedule provides a careful balance of these considerations, calling for the remaining fire protection modifications to be implemented and installed on a phased schedule that is as prompt as can be reasonably achieved.

The revised schedules distinguish between requirements imposed for the first time on the licensee by Appendix R and those requirements already imposed in license conditions or Technical Specifications issued prior to the effective date of the rule. For requirements imposed by Appendix R, including the items "backfit" to all plants, the schedule provides a reasonable time after publication of the rule for completion of required modifications. For requirements already imposed by license conditions providing for implementation after November 1, 1980, the Commission has reviewed these schedules and has found that in some instances the allotted time for completion of the required modifications may be excessive. Thus, for fire protection features other than those covered by Appendix R, although the Commission has extended the compliance dates beyond the November 1, 1980, date in the proposed rule, the Commission has added a requirement that limits the compliance schedule in existing licenses if such schedules extend beyond what we now believe should have been a reasonable schedule initially. Relief from such limitation may be granted by the Director of Nuclear Reactor Regulation upon a showing that there is good cause for extending such date and that public health and safety is not adversely affected by such extension.

It should also be noted that for licensees whose license conditions imposed a schedule with a compliance date of November 1, 1980, or other date prior to the effective date of § 50.48, the Commission has suspended such compliance dates by promulgating on October 29, 1980, a temporary rule § 50.48 (45 FR 71569), which will be superseded by this rule.

To better understand the nature of the public comments received and the staff's resolution of these comments, the following section will consider each section of Appendix R to this part. In

Section III, we provide a summary of the Technical Basis for each requirement, followed by a summary of the public comments and a statement of the staff's disposition of those comments.

Section I. Introduction and Scope

This section has been revised as a result of comments to include a discussion of the importance of safe shutdown capability and the distinction between requirements for "safety-related" equipment and equipment needed for "safe shutdown."

Section II. General Requirements

This section has been substantially rewritten as a result of comments to provide a concise summary of general requirements. The specific requirements were consolidated with the appropriate parts of Section III, "Specific Requirements," except that the credit given for 50-foot separation has been dropped.

Section III. Specific Requirements

The requirements in this rule are based upon principles long accepted within that portion of American industry that has been classified by their insurance carriers as "Improved Risk" or "Highly Protected Risk". In each of these cases, the Commission has decided that the overall interest of public safety is best served by establishing some conservative level of fire protection and ensuring that level of compliance exists at all plants. The following is a list of the specific technical bases and resolution of public comments for each of the specific requirements in Appendix R.

A. Water Supplies for Fire Suppression Systems Technical Basis. One of the basic fire protection requirements for a modern industrial site in the United States is a separate water distribution system for fire protection with dual water supplies. Duplicate water supplies are required to ensure uninterrupted fire suppression capability allowing for single failures and periodic maintenance and repair of vital portions of the systems. Duplicate water supplies may consist of separate suction lines for fire pumps from a large body of water such as lake, river, or pond or from two water storage tanks.

For nuclear power plants, the distribution system is required to consist of a loop around the plant with suitable valves for isolating portions of the system for maintenance or repair without interrupting the water supply to the various fire suppression systems in the plant. Thus, with dual supplies and a loop concept, an adequate water supply can be ensured to each manual or

automatic water suppression system throughout the plant.

An ensured minimum volume of water is set aside and dedicated for fire protection uses to be available at all times regardless of other simultaneous water uses in the plant. This water volume is dedicated for fire service by means of separate storage tanks or separate pump suction lines from a large body of water. When common tankage is employed for fire service needs and other water services, the fire pump suction lines must be at the bottom of the tank and other water supply suction lines must be located at a higher level to ensure that the minimum dedicated water volume is set aside for fire protection needs. Administrative controls by themselves, such as locked valves to ensure adequate water supply for fire fighting needs, are deemed unacceptable at nuclear power plants.

Comment Resolution

Many commenters stated that we were being too restrictive by stipulating an underground yard fire main loop and fresh water supplies. Our intent was only that a yard fire main loop be furnished. We have deleted the specification for an underground loop since special conditions may dictate that part of the loop be above ground or inside safety-related buildings. Such arrangements are acceptable.

With regard to the specification for a fresh water supply, the staff was attempting to avoid potential plant problems that are not associated with fire protection. From a fire protection standpoint, salt or brackish water is acceptable for fire suppression provided the fire protection system is designed and maintained for salt or brackish water. The requirement for fresh water supplies is therefore dropped. Other operational problems unrelated to fire protection that may result from the use of salt or brackish water for fire suppression activities are outside the scope of this regulation.

Several commenters took issue with the requirement for two separate redundant suction lines, stating that some plants use a single large intake structure on a lake or a river for all water requirements. The requirement for separate intake structures was not intended and the rule has been clarified.

Several comments called for deleting the requirements for dedicated tanks or use of vertical standpipe for other water services when storage tanks are used for combined service-water/fire-water uses, on the basis that this is overly restrictive and other ways are available to ensure a dedicated supply such as weirs, suction location, etc. Two separate but

related issues are involved here. The first is the requirement for dedicated water storage tanks for fire fighting purposes. The suggestion that the requirement for dedicated tanks be deleted was rejected for the reasons stated in the preceding Technical Basis.

The other point deals with ensuring minimum water storage capacity for fire suppression activities when storage tanks are used for combined service-water/fire-water uses. The term "vertical standpipe for other water service" simply means that the suction for other water uses in common storage tanks will be located sufficiently high to ensure the minimum water volume needs for fire suppression activities. If the commenters were assuming that "vertical standpipe" referred only to pipes inside the tank, this is not the case. In fact a standpipe exterior to the storage tank is more desirable since any leakage would be immediately evident. On an internal standpipe a leak in the pipe could actually allow depletion of the water otherwise to be reserved for fire uses. The rule has been clarified to allow physical alternatives for water supply dedication but to preclude exclusive use of administrative controls for this purpose.

Some commenters objected to the requirement that other water systems used as a backup water supply for fire protection should be permanently connected to the fire main system and suggested that it would be sufficient to provide a water supply capable of being connected to the fire main system within ten minutes of the loss of normal water supply or pumps. The rule does not address backup water supplies. The requirement means that, if another water system is used as one of the redundant water supplies, it must satisfy all of the requirements of the fire protection water supplies. Additional backup supplies need not meet these requirements.

One commenter asked why only a two-hour water supply is required when the Browns Ferry Fire lasted well over two hours. All of the investigations of the Browns Ferry Fire clearly show that if water had been used immediately, the fire would have been extinguished much earlier. Indeed once the manual fire fighting activities were started with the use of only one fire hose stream, the fire was extinguished within one-half hour. The staff would find unacceptable any condition in which a postulated fire that could threaten safe shutdown capability could not be controlled and extinguished within two hours with any combination of manual and automatic fire suppression activities. Therefore, a two-

hour water supply is considered adequate. It should also be noted that this minimum dedicated water volume is based on maximum flow rates. Since most fires are controlled and extinguished with much smaller flow rates, this requirement realistically represents a dedicated water volume far in excess of two hours.

B. Sectional Isolation Valves.

C. Hydrant Isolation Valves
Technical Basis. These two requirements are similar and can be treated together. Proper valving is required to isolate portions of the water distribution system for maintenance or repair without interrupting the water supply to manual or automatic fire suppression systems inside the plant. Valves are similarly required to permit isolation of outside yard hydrants from the water distribution system for maintenance or repair without interrupting water supply to fire suppression systems inside the plant. Visually indicating valves such as post indicator valves are preferred so that the position of the valve can be readily determined. However, key-operated valves (commonly known as curb valves) are acceptable for these purposes where plant-specific conditions warrant their use.

B. Section Control Valves—Comment Resolution. Many commenters stated that the requirement for "approved visually indicating" sectional control valves was overly restrictive, unnecessary, and not specific with respect to who should give the approval. The Commission has accepted this suggestion; the rule now requires that sectional control valves shall be provided to isolate portions of the fire main for maintenance or repair without shutting off the entire system. Post indicator or key-operated valves are mentioned as two examples of acceptable valves.

C. Hydrant Block Valves—Comment Resolution. A number of commenters made suggestions for rewording this section. This section has been clarified to state the requirement for capability to isolate hydrants from the fire main without disrupting the water supply to automatic or manual fire suppression systems in any area containing or presenting a fire hazard to safety-related or safe shutdown equipment.

One commenter suggested that this requirement be dropped in its entirety since it "is a new requirement which has not been subjected to the peer review process." This suggestion was rejected on the basis that Appendix A to BTP APCS 9.5-1 contains the following sentence: "The lateral to each hydrant from the yard main should be controlled

by a visually indicating or key-operated (curb) valve," and there was an opportunity to comment on this document.

D. Manual Fire Suppression Technical Basis. Considerable reliance is placed on automatic fire suppression systems throughout a nuclear power plant. However, manual fire fighting activities often can control and extinguish slowly developing fires before an automatic fire suppression system is actuated. In addition, fires that are controlled or extinguished by automatic systems require a certain amount of manual response. Also, some areas of the plant do not warrant the installation of automatic fire suppression systems. Manual response is the only fire suppression available for these areas; thus, it is important that manual fire fighting capability be present in all areas of the plant, and that standpipe and hose stations be located throughout the plant. The standpipe and hose stations are to be located so that at least one effective hose stream can be brought to bear at any location in the plant containing or presenting a hazard to structures, systems, or components important to safety. They are to be supplied from the fire water supply system except for those inside containment, which may be connected to other reliable water supplies if a separate penetration into containment cannot be made for fire water service needs.

Comment Resolution

Several commenters suggested adding a sentence reading "Standpipe and hose stations are not required if sufficient justification can be provided that adequate fire protection features have been provided to account for a given fire area." This suggestion was rejected. The staff has taken the position that the minimum requirements are that at least one effective hose stream that will be able to reach any location that contains or could present an exposure fire hazard to the safety-related equipment. The Commission concluded that no analyses can identify hazards so carefully that this minimum requirement can be further reduced.

E. Hydrostatic Hose Test Technical Basis. Fire hoses should be hydrostatically tested periodically to ensure that they will not rupture during use. The requirement for a minimum test pressure of 300 psi comes from NFPA No. 196 (National Fire Protection Association Standard No. 196—Standard for Fire Hose), a nationally recognized consensus standard. This standard contains other guidance for the

use and care of fire hose that most industries find useful.

Comment Resolution

Many commenters pointed out the erroneous usage of the term "service pressure" rather than "operating pressure" in this requirement. The intended meaning for this requirement is that all hoses would be tested at a pressure greater than the maximum pressure found in the fire protection water distribution systems. The correct terminology is "operating pressure." The rule has been so changed. In addition, the staff added a specific minimum test pressure requirement of 300 psi to meet the NFPA standard.

One commenter also pointed out that hoses should be inspected for mildew, rot, cuts, or other damage. Although this is a valid comment, it is not an unresolved issue with any licensee so it need not be covered by this rule. In addition, such inspections are already being performed in accordance with the plant's Technical Specifications.

F. Automatic Fire Detection Technical Basis. The requirement that automatic fire detection systems be installed in all areas that contain safe shutdown or safety-related systems or components follows generally accepted fire protection practice. Installation of such fire detection capability is independent of any requirements for automatic or manual fire suppression capability in an area. The purpose of these detection systems is to give early warning of fire conditions in an area so that the fire brigade can initiate prompt actions to minimize fire damage within the plant.

Comment Resolution

Many commenters suggested that the words "automatic fire detection capability" be substituted for "automatic fire detection systems" on the basis that, as worded, the requirements are too limiting. They stated that an automatic sprinkler system with appropriate alarm check valves and central alarm features provides acceptable detection/alarms capability. Several commenters claimed that a separate detection system is not needed in areas covered by sprinkler systems equipped with fusible link sprinkler heads. A fusible link has a time delay before it actuates. However, more importantly, a smoldering localized fire that could do damage may not generate enough heat to melt the fusible link. While we do not disagree that the alarm from an automatic fire suppression system serves as notification that a fire exists, we concluded that the minimum requirement for a separate fire detection

system in all such areas should be retained. The fire hazards analysis may call for a separate suppression system, but this would be in addition to the fire detection system.

G. Protection of Safe Shutdown Capability Technical Basis. The objective for the protection of safe shutdown capability is to ensure that at least one means of achieving and maintaining safe shutdown conditions will remain available during and after any postulated fire in the plant. Because it is not possible to predict the specific conditions under which fires may occur and propagate, the design basis protective features are specified rather than the design basis fire. Three different means for protecting the safe shutdown capability outside of containment are acceptable. The first means is separation of redundant safe shutdown trains and associated circuits by means of 3-hour fire rated barriers. The second means is a combination of separation of redundant safe shutdown trains and associated circuits by a 1-hour fire rated barrier and automatic fire suppression and detection capability for both redundant trains. The third means, which may be used only when redundant trains and associated circuits are separated by 20 feet or more of clear space, requires automatic fire suppression and detection systems in the area. An alternative or dedicated safe shutdown capability independent of the fire area is required if fire protection for safe shutdown capability cannot be provided as outlined above. For cables and equipment needed for safe shutdown located inside of noninerted containments, a lesser degree of fire protection is permitted because transient exposure fires are less likely inside containment during plant operation. Section III.M, "Fire Barriers," discusses the technical basis for the 3-hour barrier, and Section III.L, "Alternative and Dedicated Shutdown Capability," discusses the technical basis for safe shutdown capability.

Comment Resolution

Many commenters suggested that the first paragraph be changed slightly and the rest of this section deleted. The basis for their contention is that the rule should state simply the requirement to protect cables or equipment of systems necessary for safe shutdown of the plant and leave specific implementation details in some other type of document.

We have modified this section by removing the listing of considerations, deleting Table I, and revising the wording to provide clarification.

H. Fire Brigade.

I. Fire Brigade Training Technical Basis. Most modern industrial plants with replacement cost values approaching those of a modern nuclear powered electric generating station have a full-time fully equipped fire department, including motorized fire apparatus. Because of the reduced severity of fire hazards in a nuclear generating station as compared to a manufacturing plant, the Commission believes that it is not necessary to mandate a fully staffed fire department. However, manual fire response capability is required at a nuclear plant and a properly equipped and fully trained fire brigade will satisfy this need. The Commission has determined that a brigade of five persons constitutes the minimum size sufficient to perform the actions that may be required by the brigade during the fire and to provide some margin for unanticipated events.¹ Similarly, the training requirements listed are considered the minimum needed to ensure that the fire brigade will be able to function effectively during a fire emergency.

The proposed rule required emergency breathing apparatus without specifying the number of such pieces of apparatus. The rule has been modified to specify the personnel for whom such apparatus is to be provided and to specify reserve air requirements.

H. Fire Brigade—Comment Resolution. Many commenters suggested changing this requirement to a simple statement that a trained and equipped, nominal size, site fire brigade of five persons be provided on each shift unless a lesser number is justified. This recommended change was rejected by the Commission for the reasons stated in the Technical Basis.

Some commenters objected to the exclusion of the shift supervisor from the fire brigade. The commenters felt that the shift supervisor should go to the fire and provide the benefit of his expertise and authority. The rule would not prevent this. However, the shift supervisor may have to go elsewhere during the course of a fire that adversely affects plant operation. The fire brigade leader must stay with the fire brigade and be assigned no other responsibilities during a fire emergency, therefore, the shift supervisor must be excluded from membership on the fire brigade.

I. Fire Brigade Training—Comment Resolution. Many commenters have

¹ This is discussed at length in the NRC staff's "Evaluation of Minimum Fire Brigade Shift Size", dated June 8, 1979; copies are available from David P. Notley, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

stated that NRC used unnecessary detail in spelling out specific requirements for classroom instruction, fire fighting practice, and fire drills. Some commenters felt that these requirements were more detailed than anything the Commission has published with regard to operator training. The Commission here points out that most of the investigations of the TMI accident identified inadequately trained operators as an important factor and that work is now being done in this area. The fact is not that the training requirements spelled out here for the fire brigade members are excessive when compared to training requirements for reactor operators, but that fire brigade training is further along in development, and training parameters that are essential to a comprehensive program have been identified.

J. Emergency Lighting Technical Basis. Emergency lighting is required in all nuclear power plants. Battery-powered lights with capacities of 1½ to 2 hours is usually sufficient for emergency egress. However, the postfire emergency lighting requirements in a nuclear power plant are of a different kind. The need is for lighting that aids the access to equipment and components that must be manually operated by plant personnel to effect safe plant shutdown during plant emergencies. Because such activities may extend over a considerable period of time both during and after the fire, it is prudent to provide 8-hour battery emergency lighting capability to allow sufficient time for normal lighting to be restored with a margin for unanticipated events.

Comment Resolution

Many commenters stated that the requirement for emergency lighting is overly restrictive in three specifics: first, that emergency lighting is unnecessary in many of the designated areas; second, that the requirement for sealed beam or fluorescent units is overly restrictive; third, that the requirement for individual 8-hour battery power supply is excessive. Three commenters recommended a 2-hour battery power supply; five commenters recommended a plant-specific power supply; and one commenter recommended that there be no permanent installation.

These suggestions have been accepted in part. Lighting units with 8-hour battery supplies are to be provided in all areas needed for operation of safe shutdown equipment and in access and egress routes thereto. The reasoning behind the requirement for an 8-hour battery power supply is that there can be a great deal of other activity during a

fire emergency and operators involved in safe plant shutdown should not also have to be concerned with lighting in the area. The small cost differential between 2-hour supply and the substantial additional protection afforded by the 8-hour supply does not warrant reducing this requirement. The Commission has decided to require an 8-hour battery power supply in all areas needed for operation of safe shutdown equipment and in access and egress routes.

K. Administrative Controls Technical Basis. The fire protection program uses administrative controls for fire prevention and prefire planning. The items listed in this section are generally accepted within the fire protection community as minimum requirements for an effective administration of the fire protection program. Controls are placed on the storage and use of combustible materials to reduce the fire loading in safety-related areas and on ignition sources to avoid careless operations. Procedures are used to control actions to be taken by individuals who discover a fire and by the fire brigade for the development of preplanned fire fighting strategies and actual fire fighting techniques.

Comment Resolution

Many commenters stated that this requirement was much too detailed for a regulation. Some stated that the requirements should apply only to those areas having safe shutdown equipment. Other commenters stated that a simple statement that administrative procedures should be established to control the various fire hazards throughout the plant was sufficient, and that the details could be spelled out in a regulatory guide or some other similar document.

Minor changes have been made in the wording of this requirement for clarification.

L. Alternative and Dedicated Shutdown Capability.

Technical Basis. In some locations (such as the cable spreading room) within operating nuclear power plants, it is not always possible or practicable to protect redundant safe shutdown systems against adverse effects of fire or fire suppression activities only through the use of fire protection features because the redundant safe shutdown systems in a given fire area are too close to each other. Alternative shutdown capability has usually been required to be independent of the control room, cable spreading room, switchgear rooms and cable riser areas because redundant systems in these areas are not adequately separated. When plant

modifications to provide alternative shutdown systems are extensive, a dedicated system that is essentially a minimum capability safe shutdown train and is independent of those already existing may be provided. This minimum capability is required to maintain the process variables within those values predicted for a loss of offsite power. The case of loss of offsite power is assumed because fires in certain circumstances (e.g., electrical distribution systems) could cause or be related to such a loss. Fire damage to cold shutdown capability is limited to damage that can be repaired within 72 hours to provide a margin in achieving cold shutdown conditions. Consideration is given to associated circuits because most plants were not designed with this concept in mind. Should either the alternative or dedicated capability be required to function because of a fire, it must not be disabled by fire damage to associated circuits. Also, this capability does not have to meet the single failure criterion because it is only one of several levels of defense. Seismic Category I criteria is not imposed because fires that would require the installation of alternative or dedicated shutdown capability are not seismically induced.

Comment Resolution

Many of the commenters stated that this requirement exceeded the scope of Appendix R by defining alternative shutdown requirements. They stated that the time requirements are excessive and should be dropped. They also contend that this regulation does not take into account the many plant reviews being conducted under the Systematic Evaluation Program (SEP).

It is generally understood that cold shutdown is the ultimate safe shutdown condition and that, for each fire area, different means may be used and may be necessary to achieve cold shutdown. Because a fire in certain areas at some plants would have the capability of disabling systems required to achieve both hot and cold shutdown, it is necessary to specify the minimum capability and time requirement for each condition necessary to achieve safe shutdown. We agree that evaluations being made under the Systematic Evaluation Program (SEP) may also call for alternative or dedicated shutdown capability for reasons other than fire protection. For example, seismic, flooding, or emergency core cooling requirements resulting from the SEP may require additional modifications. Each licensee should be aware of the status of the SEP so that the requirements resulting from SEP can be effectively integrated with those relating to fire

protection to the extent possible. However, the Commission has decided that the modifications required to complete the fire protection program should not be deferred until the SEP review is completed.

M. Fire Barriers.

Technical Basis. The best fire protection for redundant trains of safe shutdown systems is separation by unpierced fire barriers—walls and ceiling-floor assemblies. Because these barriers are passive fire protection features, they are inherently reliable provided they are properly installed and maintained. Fire barriers have been used successfully for many years to subdivide large potential fire losses into smaller, more acceptable risks. Even fire barriers with openings have successfully interrupted the progress of many fires provided the openings were properly protected by fire doors or other acceptable means.

Fire barriers are "rated" for fire resistance by being exposed to a "standard test fire". This standard test fire is defined by the American Society for Testing and Materials in ASTM E-119, "Standard for Fire Resistance of Building Materials." Fire barriers are commonly rated as having a fire resistance of from 1 to 8 hours. Most "Improved Risk" or "Highly Protected Risk" (as classified by insurance carriers) industrial properties in the United States require fire barriers to have a resistance rating of 2 to 4 hours.

While a nuclear power plant has a low fire load, the potential consequences of fire are serious. Therefore, the Commission has selected 3 hours has been as an acceptable minimum fire resistance rating for fire barriers separating redundant trains for safe shutdown systems. This will give ample time for automatic and manual fire suppression activities to control any potential fire and for safe shutdown activities to properly control the reactor. Many operating plants, or plants that are already built but that are not yet operating, have both trains of safe shutdown equipment located in close proximity and a single fire could damage or destroy the functional capability of both redundant trains. If specific plant conditions preclude the installation of a 3-hour fire barrier to separate the redundant trains, a 1-hour fire barrier and automatic fire suppression system for each redundant train will be considered the equivalent of 3-hour barrier.

If the 1-hour fire barrier and automatic fire suppression for each redundant train cannot be provided because of plant-specific conditions, alternative or dedicated shutdowns capability will be

required to ensure safe shutdown capability. The use of a 1-hour barrier in conjunction with automatic fire suppression and detection capability for each redundant train of safe shutdown equipment is based on the following considerations. Automatic suppression is required to ensure prompt, effective application of suppressant to a fire that could endanger safe shutdown capability. The activation of an automatic fire detection or suppression system does not occur until sufficient smoke or heat has been developed by the fire. Therefore, the Commission is requiring a 1-hour barrier to ensure that fire damage will be limited to one train until the fire is extinguished.

These requirements have now been incorporated in Section III.G, "Fire Protection of Safety Functions."

Comment Resolution

Several commenters made a number of suggestions of an editorial nature. One suggestion was to add "or unless other fire protection features have been provided to ensure equivalent protection" in the first paragraph, where three-hour rated fire barriers were stipulated unless a lower rating was justified by the fire hazards analysis. The Commission feels that this adds nothing in the way of clarification and the suggestion was not adopted. The second paragraph requires that structural steel forming a part of or supporting any fire barrier have a fire resistance equivalent to that required of the barrier. An example was given of metal lath and plaster covering as being one means of providing equivalent protection. Several commenters stated that they thought this was too narrow and would be interpreted by some people as the only acceptable method permitted. Since the example seemed to be confusing, a decision has been made to eliminate it. Other comments to the effect that the requirement was excessively restrictive with regard to fire barrier penetrations, including fire doors and their associated frames and hardware, and ventilation systems have been acted upon by the staff and the requirement, as it had affected these items, was deleted.

N. Fire Barrier Cable Penetration Seal Qualification.

Technical Basis. Unpierced fire barriers offer the best protection for separating redundant trains of safety-related or safe shutdown equipment. However, these barriers must be pierced for both control and power cables. These penetrations must be sealed to achieve a degree of fire resistance equivalent to that required of the barrier that is pierced. ASTM Standard E-119 is

the national consensus standard used for testing and rating these cable penetration seals. Since the cables conduct the heat through the barrier, and since the cable insulation is combustible, the acceptance criteria of the ASTM Standard E-119 relating to temperature on the unexposed side must be appropriately modified.

Comment Resolution

Some commenters suggested that this entire section be deleted and replaced with the following two sentences: "Penetration seals shall provide the equivalent protection which is required of the fire barrier. Evaluation of the penetration seals based upon a design review and relevant test data or qualification tests may be made." The commenters felt that sufficient test data are available to permit evaluation of design requirements without full-scale mockup testing and that many of the items spelled out in the regulation, such as the water hose stream test, were too detailed and did not belong in the regulation. The Commission has reconsidered this issue and revised the rule to (a) require the use of noncombustible materials only in the construction of fire barrier penetration seals, (b) require fire barrier penetration seals to be qualified by test; and (c) require such tests to satisfy certain acceptance criteria.

O. Fire Doors.

Technical Basis. Door openings in fire walls constitute another breach that must be protected. Fire doors that have been tested and rated for certain fire exposures are installed to protect these openings. Fire doors frequently fail to protect the openings in which they are installed because they are not fully closed. Various methods are available to licensees to ensure that fire doors are in proper operating condition and that they will be closed during a fire. These options are listed in Appendix R.

Comment Resolution

Many commenters stated that this requirement is too detailed and should be deleted. Minor editorial changes have been made in order to more clearly state the requirements.

P. Reactor Coolant Pump Lubrication System.

Technical Basis. Each reactor coolant pump motor assembly typically contains 140 to 220 gallons of lube oil. Oil leaking from some portions of the lube oil system may come in contact with surfaces that are hot enough to ignite the oil. The resulting fire could be large, and access to the fire would be delayed because of the time required to enter the containment. Containment air temperature

would increase, severe localized environments would develop in the area of the fire, and a large amount of smoke would be generated. These conditions could affect operability of safety-related equipment inside containment. Therefore, an oil collection system is necessary to confine any oil discharged due to leakage or failure of the lubrication system and to prevent it from becoming a fire hazard by draining it to a safe location. These occurrences could be random or could be seismically induced because the existing lube oil system piping and oil collection systems may not be designed to withstand a design basis seismic event.

Appendix A to BTP APCSB 9.5-1 states that for operating plants, "postulated fires or fire protection system failures need not be considered concurrent with other plant accidents or the most severe natural phenomena." The basis for that statement is two fold. First, nuclear power plants are massive structures, and essential services are designed to withstand earthquakes and other natural phenomena. Second, the history of many fires associated with recent earthquakes have been evaluated. These evaluations showed that such fires usually are due to failure of piping or tanks of flammable gasses or liquids such as municipal natural gas distribution systems or gasoline storage and/or dispensing stations. Where such potential fire hazards exist in nuclear power plants (e.g., hydrogen for generator cooling, or oil fuel for the emergency diesel generator or station space heating boilers) they are designed and installed to withstand the damaging effects of various natural phenomena, and other special fire protection features are provided as necessary. However, General Design Criterion 2 *Design Bases for Protection Against Natural Phenomena* requires that structures, systems, and components important to safety be designed to withstand the effects of earthquakes without loss of capability to perform their safety function. Regulatory Guide 1.29, "Seismic Design Classification," describes an acceptable method for identifying and classifying those features of light-water-cooled nuclear power plants that should be designed to withstand the effects of the Safe Shutdown Earthquake. In this guide, paragraph C.1 applies to systems that are required to remain functional to ensure heat removal capability; paragraph C.2 applies to systems that do not have to remain functional for that purpose, but whose failure could reduce the functioning of those systems covered by paragraph C.1. The reactor coolant

pump oil collection system is covered by paragraph C.2 because its function is required to protect safety-related systems rather than to perform a safety function. Because the failure of the oil collection system for a seismically induced oil fire should not prevent a safety-related system from performing its safety function (Regulatory Guide 1.29, "Seismic Design Classification," paragraph C.2), the oil collection system should be designed, engineered, and installed so that its failure will not lead to a fire affecting safety-related equipment as a result of an earthquake.

The proposed rule permitted two alternatives—an oil collection system or an automatic fire suppression system. We have deleted the alternative of the suppression system because unacceptable damage may result to the safety-related systems from the burning of oil before the suppression system is actuated and because the fire water supply system is not designed to withstand seismic events. In addition, these pumps are located within the biological shield inside containment, therefore, timely fire brigade action would be difficult if the suppression system malfunctions. Further, if the suppression system becomes inoperable during operation, a fire watch or patrol cannot enter the area during operation.

Comment Resolution

A number of commenters suggested that this section is too detailed and should be substantially modified. This requirement was changed to delete the option of protecting the reactor coolant pump lubrication system with an automatic fire suppression system. We have modified the rule to indicate that the requirement that the oil collection system be designed to provide reasonable assurance that it will withstand the Safe Shutdown Earthquake can be met by satisfying paragraph C.2. of Regulatory Guide 1.29, "Seismic Design Classification," as described above.

Q. Associated Circuits.

Technical Basis. When considering the consequences of a fire in a given fire area during the evaluation of safe shutdown capabilities of a plant, the staff must be able to conclude that one train of equipment that can be used immediately to bring the reactor to a hot shutdown condition remains unaffected by that fire. The staff must also be able to conclude that damage to one train of equipment used for achieving cold shutdown will be limited so that the equipment can be returned to an operable condition within 72 hours. (See Technical Basis for Section III.G, "Protection of Safe Shutdown

Capability.") In the fire hazards analysis for a plant, the equipment relied upon to perform both functions must be identified for each fire area. It follows that any associated non-safety circuits in the fire area that could adversely affect the identified shutdown equipment by feeding back potentially disabling conditions (e.g., hot shorts or shorts to ground) to the power supplies or control circuits of that equipment must also be evaluated. Of course such disabling conditions must be prevented to provide assurance that the identified safe shutdown equipment will function as designed. These requirements have now been incorporated in Section III.L, "Alternative and Dedicated Shutdown Capability."

Comment Resolution

Many commenters stated that this requirement should be deleted because many older plant designs did not consider associated circuits and this is, therefore, a new design requirement. The commenters felt that the analysis that will be required to satisfy this requirement will be both long and complicated and the requirement should therefore be deleted.

The Commission rejected these suggestions for the following reasons.

1. Virtually all of the fire protection modifications made to date have been required to correct deficiencies that resulted from lack of consideration of certain specific items during initial design and construction.

2. The Browns Ferry fire showed the necessity of divisional separation of the associated circuit of the control cables to prevent the disabling of safety systems by a single fire. This has been discussed with licensees during evaluations of alternative and dedicated shutdown capability and is necessary to ensure that safe shutdown systems will be able to function properly in the event of fire.

3. The staff considers incomplete any fire hazard analysis that does not consider the effects of fire damage to circuits that are associated with safe shutdown systems.

As indicated above, as a result of the comments received on this issue, it is unclear that associated circuits have in fact been adequately considered by licensees in their reviews using the guidance of Appendix A to BTP APCSB 9.5-1. To ensure that the associated circuits are considered, all operating nuclear power plants will be required to meet the requirements of Section III.G of Appendix R.

General Comments Resolution:

Several commenters contended that Commission regulations mandate that an adjudicatory hearing be conducted prior to a final decision. One commenter labeled the regulation an "order" within the meaning of the Administrative Procedure Act (5 U.S.C. 551(6)) (APA) and asserted that 10 CFR 2.204 of the Commission's regulations, "Order for Modification of License," applies to this rulemaking proceeding.

The Commission disagrees with these comments. A "rule" is defined in the APA to mean "the whole or a part of an agency statement of general or particular applicability and future effect designed to implement * * * or prescribe law or policy * * *" (5 U.S.C. 551(4)). The agency action questioned here is clearly one that treats similarly situated licensees equally and that prescribes future conduct or requirements. For those licensees who have not already provided an equivalent level of fire protection, certain specific fire protection features are required. Various of these requirements would apply to approximately 40 facilities. The commenter's characterization of the rule as an order, along with the assertion that 10 CFR 2.204 mandates a hearing before the rule becomes final is incorrect. On its face, that regulation (which does grant a hearing right) applies only to Commission orders that modify a license.² It does not apply to requirements promulgated through a rulemaking action conducted in accordance with the requirements of applicable law.

Several commenters contended that the environmental impact had not been adequately addressed. One commenter, citing the requirements in Section III.A of Appendix R for two water supplies and two separate redundant sections as examples of requirements involving environmental issues, contended that the Commission relied upon its staff's "unsupported determination that, pursuant to 10 CFR § 51.5(d), an environmental impact statement, appraisal, or negative declaration is not required." The Commission has considered Section III.A and has further considered the remaining requirements of Appendix R and remains convinced that the regulations are not substantive and are insignificant from the standpoint of environmental impact.

One commenter suggested that all plants be required to install dedicated

shutdown capability. The Commission does not agree. We believe that the Commission's overall fire protection program involving extensive plant-specific fire protection modifications that are based on guidance set forth in Branch Technical Position BTP APCSB 9.5-1 and its Appendix A and the specific requirements of Appendix R to resolve disputed issues provide adequate fire protection.

One commenter stated that the ambiguity of the proposed regulation with regard to critical items requires that it be renoticed. The commenter referenced three portions of the proposed Appendix R as examples of such ambiguity. They were Section III.G, Section III.N, and Section III.Q. We have reviewed these examples.

In reference to the first example, the commenter stated that the first paragraph of Section III.G identifies alternative shutdown capability as an optional protective feature and that paragraph III.G.2.c then identifies alternative shutdown capability as a minimum fire protection feature. We do not agree with this statement. The first paragraph of Section III.G identifies alternative shutdown capability as one option in a combination of fire protection features for a specific fire area. Paragraph III.G.3 indicates when this option should be used.

In reference to the second example, the commenter stated that Section III.N requires a pressure differential across the test specimen during the testing of fire barrier penetration seals but fails to define the pressure differential. This comment is incorrect. The pressure differential called for by the proposed provision was the maximum pressure differential that the barrier would experience in the specific plant installation. In any event, the requirement for pressure differential during such testing has been deleted since only noncombustible material is now being used for such seals.

In reference to the third example, the commenter stated that Section III.Q is totally lacking in definition. We do not agree. Footnote 6 references Regulatory Guide 1.75 and IEEE Std 384-1974. The latter document is a commonly used industry standard that defines associated circuits and provides guidance for ensuring that such circuits do not compromise the independence of the shutdown circuits they are associated with.

Based on the above examples and our review of the other provisions of the proposed rule, we do not believe that the rule as proposed was ambiguous so as to require renoticing. Moreover, it should be noted that, based on other

comments received on the proposed regulations, other commenters demonstrated a thorough understanding of the proposed requirements.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and Sections 552 and 553 of Title 5 of the United States Code, notice is hereby given that the following amendments to Title 10, Chapter I, Code of Federal Regulations, Part 50, are published as a document subject to codification.

1. A new § 50.48 is added to read as follows:

§ 50.48 Fire Protection.

(a) Each operating nuclear power plant shall have a fire protection plan that satisfies Criterion 3 of Appendix A to this part. This fire protection plan shall describe the overall fire protection program for the facility, identify the various positions within the licensee's organization that are responsible for the program, state the authorities that are delegated to each of these positions to implement those responsibilities, and outline the plans for fire protection, fire detection and suppression capability, and limitation of fire damage. The plan shall also describe specific features necessary to implement the program described above, such as administrative controls and personnel requirements for fire prevention and manual fire suppression activities, automatic and manually operated fire detection and suppression systems, and the means to limit fire damage to structures, systems, or components important to safety so that the capability to safely shut down the plant is ensured.³

(b) Appendix R to this part establishes fire protection features required to satisfy Criterion 3 of Appendix A to this part with respect to certain generic issues for nuclear power plants licensed to operate prior to January 1, 1979. Except for the requirements of Sections III.G, III.J, and III.O, the provisions of Appendix R to this part shall not be applicable to nuclear power plants licensed to operate prior to January 1, 1979, to the extent that fire protection features proposed or implemented by

² Basic fire protection guidance for nuclear power plants is contained in two NRC documents:

* Branch Technical Position Auxiliary Power Conversion System Branch BTP APCSB 9.5-1, "Guidelines for Fire Protection for Nuclear Power Plants," for new plants docketed after July 1, 1976, dated May 1976.

* Appendix A to BTP APCSB 9.5-1, "Guidelines for Fire Protection for Nuclear Power Plants Docketed Prior to July 1, 1976," for plants that were operating or under various stages of design or construction before July 1, 1976, dated August 23, 1976.

Also see Note 4.

³ It should also be noted that § 2.204 is codified in Subpart B of 10 CFR Part 2. The scope of Subpart B is specifically limited to "cases initiated by the staff * * * to impose requirements by order on a licensee" (10 CFR 2.200(a)). (Emphasis supplied.)

the licensee have been accepted by the NRC staff as satisfying the provisions of Appendix A to Branch Technical Position BTP APCSB 9.5-1⁴ reflected in staff fire protection safety evaluation reports issued prior to the effective date of this rule, or to the extent that fire protection features were accepted by the staff in comprehensive fire protection safety evaluation reports issued before Appendix A to Branch Technical Position BTP APCSB 9.5-1 was published in August 1976. With respect to all other fire protection features covered by Appendix R, all nuclear power plants licensed to operate prior to January 1, 1979 shall satisfy the applicable requirements of Appendix R to this part, including specifically the requirements of Sections III.G, III.J, and III.O.

(c) All fire protection modifications require to satisfy the provisions of Appendix R to this part or directly affected by such requirements shall be completed on the following schedule:

(1) Those fire protection features that involve revisions of administrative controls, manpower changes, and training, shall be implemented within 30 days after the effective date of this section and Appendix R to this part.

(2) Those fire protection features that involve installation of modifications that do not require prior NRC approval or plant shutdown shall be implemented within 9 months after the effective date of this section and Appendix R to this part.

(3) Those fire protection features, except for those requiring prior NRC approval by paragraph (c)(5) of this section, that involve installation of modifications that do require plant shutdown, the need for which is justified in the plans and schedules required by the provisions of paragraph (c)(5) of this section, shall be implemented before startup after the earliest of the following events commencing 180 days or more

after the effective date of this section and Appendix R to this part:

- (i) the first refueling outage;
- (ii) another planned outage that lasts for at least 60 days; or
- (iii) an unplanned outage that lasts for at least 120 days.

(4) Those fire protection features that require prior NRC approval by paragraph (c)(5) of this section, shall be implemented within the following schedule: Dedicated shutdown systems—30 months after NRC approval; modifications requiring plant shutdown—before startup after the earliest of the events given in paragraph (c)(3) commencing 180 days after NRC approval; modifications not requiring plant shutdown—6 months after NRC approval.

(5) Licensees shall make any modifications necessary to comply with these requirements in accordance with the above schedule without prior review and approval by NRC except for modifications required by Section III.G.3 of Appendix R to this part. Licensees shall submit plans and schedules for meeting the provisions of paragraphs (c)(2), (c)(3), and (c)(4) within 30 days after the effective date of this section and Appendix R to this part. Licensees shall submit design descriptions of modifications needed to satisfy Section III.G.3 of Appendix R to this part within 30 days after the effective date of this section and Appendix R to this part.

(6) In the event that a request for exemption from a requirement to comply with one or more of the provisions of Appendix R filed within 30 days of the effective date of this rule is based on an assertion by the licensee that such required modifications would not enhance fire protection safety in the facility or that such modifications may be detrimental to overall facility safety, the schedule requirements of paragraph (c) shall be tolled until final Commission action on the exemption request upon a determination by the Director of Nuclear Reactor Regulation that the licensee has provided a sound technical basis for such assertion that warrants further staff review of the request.

(d) Fire protection features accepted by the NRC staff in Fire Protection Safety Evaluation Reports referred to in paragraph (b) of this section and supplements to such reports, other than features covered by paragraph (c), shall be completed as soon as practicable but no later than the completion date currently specified in license conditions or technical specifications for such facility, or the date determined by paragraphs (d)(1) through (d)(4) of this section, whichever is sooner, unless the Director of Nuclear Reactor Regulation

determines, upon a showing by the licensee, that there is good cause for extending such date and that the public health and safety is not adversely affected by such extension. Extensions of such date shall not exceed the dates determined by paragraphs (c)(1) through (c)(4) of this section.

(1) Those fire protection features that involve revisions of administrative controls, manpower changes, and training shall be implemented within 4 months after the date of the NRC staff Fire Protection Evaluation Report accepting or requiring such features.

(2) Those fire protection features involving installation of modifications not requiring prior approval or plant shutdown shall be implemented within 12 months after the date of the NRC staff Fire Protection Safety Evaluation Report accepting or requiring such features.

(3) Those fire protection features, including alternative shutdown capability, involving installation of modifications requiring plant shutdown shall be implemented before the startup after the earliest of the following events commencing 9 months or more after the date of the NRC staff Fire Protection Safety Evaluation Report accepting or requiring such features:

- (i) The first refueling outage;
- (ii) Another planned outage that lasts for at least 60 days; or
- (iii) An unplanned outage that lasts for at least 120 days.

(4) Those fire protection features involving dedicated shutdown capability requiring new buildings and systems shall be implemented within 30 months of NRC approval. Other modifications requiring NRC approval prior to installation shall be implemented within 6 months after NRC approval.

(e) Nuclear power plants licensed to operate after January 1, 1979, shall complete all fire protection modifications needed to satisfy Criterion 3 of Appendix A to this part in accordance with the provisions of their licenses.

2. A new Appendix R is added to 10 CFR Part 50 to read as follows:

Appendix R—Fire Protection Program for Nuclear Power Facilities Operating Prior to January 1, 1979

I. Introduction and Scope

This Appendix applies to licensed nuclear power electric generating stations that were operating prior to January 1, 1979, except to the extent set forth in paragraph 50.48(b) of this part. With respect to certain generic issues for such facilities it sets forth fire protection features required to satisfy Criterion 3 of Appendix A to this part.⁵

⁵ See footnote 4.

⁴ Clarification and guidance with respect to permissible alternatives to satisfy Appendix A to BTP APCSB 9.5-1 has been provided in four other NRC documents.

• "Supplementary Guidance on Information Needed for Fire Protection Evaluation," dated October 21, 1976.

• "Sample Technical Specification," dated May 12, 1977.

• "Nuclear Plant Fire Protection Functional Responsibilities, Administrative Control and Quality Assurance," dated June 14, 1977.

• "Manpower Requirements for Operating Reactors," dated May 11, 1978.

A Fire Protection Safety Evaluation Report that has been issued for each operating plant states how these guidelines were applied to each facility and identifies open fire protection issues that will be resolved when the facility satisfies the appropriate requirements of Appendix R to this part.

Criterion 3 of Appendix A to this part specifies that "Structures, systems, and components important to safety shall be designed and located to minimize, consistent with other safety requirements, the probability and effect of fires and explosions."

When considering the effects of fire, those systems associated with achieving and maintaining safe shutdown conditions assume major importance to safety because damage to them can lead to core damage resulting from loss of coolant through boiloff.

The phrases "important to safety," or "safety-related," will be used throughout this Appendix R as applying to all safety functions. The phrase "safe shutdown" will be used throughout this Appendix R as applying to both hot and cold shutdown functions.

Because fire may affect safe shutdown systems and because the loss of function of systems used to mitigate the consequences of design basis accidents under postfire conditions does not per se impact public safety, the need to limit fire damage to systems required to achieve and maintain safe shutdown conditions is greater than the need to limit fire damage to those systems required to mitigate the consequences of design basis accidents. Three levels of fire damage limits are established according to the safety functions of the structure, system, or component:

Safety function	Fire damage limits
Hot Shutdown.....	One train of equipment necessary to achieve hot shutdown from either the control room or emergency control station(s) must be maintained free of fire damage by a single fire, including an exposure fire. ¹
Cold Shutdown.....	Both trains of equipment necessary to achieve cold shutdown may be damaged by a single fire, including an exposure fire, but damage must be limited so that at least one train can be repaired or made operable within 72 hours using onsite capability.
Design Basis Accidents.	Both trains of equipment necessary for mitigation of consequences following design basis accidents may be damaged by a single exposure fire.

¹ *Exposure Fire.* An exposure fire is a fire in a given area that involves either in situ or transient combustibles and is external to any structures, systems, or components located in or adjacent to that same area. The effects of such fire (e.g., smoke, heat, or ignition) can adversely affect those structures, systems, or components important to safety. Thus, a fire involving one train of safe shutdown equipment may constitute an exposure fire for the redundant train located in the same area, and a fire involving combustibles other than either redundant train may constitute an exposure fire to both redundant trains located in the same area.

The most stringent fire damage limit shall apply for those systems that fall into more than one category. Redundant systems used to mitigate the consequences of other design basis accidents but not necessary for safe shutdown may be lost to a single exposure fire. However, protection shall be provided so that a fire within only one such system will not damage the redundant system.

II. General Requirements

A. Fire Protection Program

A fire protection program shall be established at each nuclear power plant. The

program shall establish the fire protection policy for the protection of structures, systems, and components important to safety at each plant and the procedures, equipment, and personnel required to implement the program at the plant site.

The fire protection program shall be under the direction of an individual who has been delegated authority commensurate with the responsibilities of the position and who has available staff personnel knowledgeable in both fire protection and nuclear safety.

The fire protection program shall extend the concept of defense-in-depth to fire protection in fire areas important to safety, with the following objectives:

- to prevent fires from starting;
- to detect rapidly, control, and extinguish promptly those fires that do occur;
- to provide protection for structures, systems, and components important to safety so that a fire that is not promptly extinguished by the fire suppression activities will not prevent the safe shutdown of the plant.

B. Fire Hazards Analysis

A fire hazards analysis shall be performed by qualified fire protection and reactor systems engineers to (1) consider potential in situ and transient fire hazards; (2) determine the consequences of fire in any location in the plant on the ability to safely shut down the reactor or on the ability to minimize and control the release of radioactivity to the environment; and (3) specify measures for fire prevention, fire detection, fire suppression, and fire containment and alternative shutdown capability as required for each fire area containing structures, systems, and components important to safety in accordance with NRC guidelines and regulations.

C. Fire Prevention Features

Fire protection features shall meet the following general requirements for all fire areas that contain or present a fire hazard to structures, systems, or components important to safety.

1. In situ fire hazards shall be identified and suitable protection provided.
2. Transient fire hazards associated with normal operation, maintenance, repair, or modification activities shall be identified and eliminated where possible. Those transient fire hazards that can not be eliminated shall be controlled and suitable protection provided.
3. Fire detection systems, portable extinguishers, and standpipe and hose stations shall be installed.
4. Fire barriers or automatic suppression systems or both shall be installed as necessary to protect redundant systems or components necessary for safe shutdown.
5. A site fire brigade shall be established, trained, and equipped and shall be on site at all times.
6. Fire detection and suppression systems shall be designed, installed, maintained, and tested by personnel properly qualified by experience and training in fire protection systems.
7. Surveillance procedures shall be established to ensure that fire barriers are in place and that fire suppression systems and components are operable.

D. Alternative or Dedicated Shutdown Capability

In areas where the fire protection features cannot ensure safe shutdown capability in the event of a fire in that area, alternative or dedicated safe shutdown capability shall be provided.

III. Specific Requirements

A. Water Supplies for Fire Suppression Systems

Two separate water supplies shall be provided to furnish necessary water volume and pressure to the fire main loop.

Each supply shall consist of a storage tank, pump, piping, and appropriate isolation and control valves. Two separate redundant suction inlets in one or more intake structures from a large body of water (river, lake, etc.) will satisfy the requirement for two separated water storage tanks. These supplies shall be separated so that a failure of one supply will not result in a failure of the other supply.

Each supply of the fire water distribution system shall be capable of providing for a period of 2 hours the maximum expected water demands as determined by the fire hazards analysis for safety-related areas or other areas that present a fire exposure hazard to safety-related areas.

When storage tanks are used for combined service-water/fire-water uses the minimum volume for fire uses shall be ensured by means of dedicated tanks or by some physical means such as a vertical standpipe for other water service. Administrative controls, including locks for tank outlet valves, are unacceptable as the only means to ensure minimum water volume.

Other water systems used as one of the two fire water supplies shall be permanently connected to the fire main system and shall be capable of automatic alignment to the fire main system. Pumps, controls, and power supplies in these systems shall satisfy the requirements for the main fire pumps. The use of other water systems for fire protection shall not be incompatible with their functions required for safe plant shutdown. Failure of the other system shall not degrade the fire main system.

B. Sectional Isolation Valves

Sectional isolation valves such as post indicator valves or key operated valves shall be installed in the fire main loop to permit isolation of portions of the fire main loop for maintenance or repair without interrupting the entire water supply.

C. Hydrant Isolation valves

Valves shall be installed to permit isolation of outside hydrants from the fire main for maintenance or repair without interrupting the water supply to automatic or manual fire suppression systems in any area containing or presenting a fire hazard to safety-related or safe shutdown equipment.

D. Manual Fire Suppression

Standpipe and hose systems shall be installed so that at least one effective hose stream will be able to reach any location that contains or presents an exposure fire hazard to structures, systems, or components important to safety.

Access to permit effective functioning of the fire brigade shall be provided to all areas that contain or present an exposure fire

hazard to structures, systems, or components important to safety.

Standpipe and hose stations shall be inside PWR containments and BWR containments that are not inerted. Standpipe and hose stations inside containment may be connected to a high quality water supply of sufficient quantity and pressure other than the fire main loop if plant-specific features prevent extending the fire main supply inside containment. For BWR drywells, standpipe and hose stations shall be placed outside the dry well with adequate lengths of hose to reach any location inside the dry well with an effective hose stream.

E. Hydrostatic Hose Tests

Fire hose shall be hydrostatically tested at a pressure of 300 psi or 50 psi above maximum fire main operating pressure, whichever is greater. Hose stored in outside hose houses shall be tested annually. Interior standpipe hose shall be tested every three years.

F. Automatic Fire Detection

Automatic fire detection systems shall be installed in all areas of the plant that contain or present an exposure fire hazard to safe shutdown or safety-related systems or components. These fire detection systems shall be capable of operating with or without offsite power.

G. Fire Protection of Safe Shutdown Capability

1. Fire protection features shall be provided for structures, systems, and components important to safe shutdown. These features shall be capable of limiting fire damage so that:

a. One train of systems necessary to achieve and maintain hot shutdown conditions from either the control room or emergency control station(s) is free of fire damage; and

b. Systems necessary to achieve and maintain cold shutdown from either the control room or emergency control station(s) can be repaired within 72 hours.

2. Except as provided for paragraph G.3 of this section, where cables or equipment, including associated non-safety circuits that could prevent operation or cause maloperation due to hot shorts, open circuits, or shorts to ground, or redundant trains of systems necessary to achieve and maintain hot shutdown conditions are located within the same fire area outside of primary containment, one of the following means of ensuring that one of the redundant trains is free of fire damage shall be provided:

a. Separation of cables and equipment and associated non-safety circuits of redundant trains by a fire barrier having a 3-hour rating. Structural steel forming a part of or supporting such fire barriers shall be protected to provide fire resistance equivalent to that required of the barrier;

b. Separation of cables and equipment and associated non-safety circuits of redundant trains by a horizontal distance of more than 20 feet with no intervening combustible or fire hazards. In addition, fire detectors and an automatic fire suppression system shall be installed in the fire area; or

c. Enclosure of cable and equipment and associated non-safety circuits of one redundant train in a fire barrier having a 1-

hour rating. In addition, fire detectors and an automatic fire suppression system shall be installed in the fire area;

Inside noninerted containments one of the fire protection means specified above or one of the following fire protection means shall be provided:

d. Separation of cables and equipment and associated non-safety circuits of redundant trains by a horizontal distance of more than 20 feet with no intervening combustibles or fire hazards;

e. Installation of fire detectors and an automatic fire suppression system in the fire area; or

f. Separation of cables and equipment and associated non-safety circuits of redundant trains by a noncombustible radiant energy shield.

3. Alternative or dedicated shutdown capability and its associated circuits,⁶ independent of cables, systems or components in the area, room or zone under consideration, shall be provided:

a. Where the protection of systems whose function is required for hot shutdown does not satisfy the requirement of paragraph G.2 of this section; or

b. Where redundant trains of systems required for hot shutdown located in the same fire area may be subject to damage from fire suppression activities or from the rupture or inadvertent operation of fire suppression systems.

In addition, fire detection and a fixed fire suppression system shall be installed in the area, room, or zone under consideration.

H. Fire Brigade

A site fire brigade trained and equipped for fire fighting shall be established to ensure adequate manual fire fighting capability for all areas of the plant containing structures, systems, or components important to safety. The fire brigade shall be at least five members on each shift. The brigade leader and at least two brigade members shall have sufficient training in or knowledge of plant safety-related systems to understand the effects of fire and fire suppressants on safe shutdown capability. The qualification of fire brigade members shall include an annual physical examination to determine their ability to perform strenuous fire fighting activities. The shift supervisor shall not be a member of the fire brigade. The brigade leader shall be competent to assess the potential safety consequences of a fire and advise control room personnel. Such competence by the brigade leader may be evidenced by possession of an operator's license or equivalent knowledge of plant safety-related systems.

The minimum equipment provided for the brigade shall consist of personal protective equipment such as turnout coats, boots, gloves, hard hats, emergency communications equipment, portable lights, portable ventilation equipment, and portable extinguishers. Self-contained breathing apparatus using full-face positive-pressure masks approved by NIOSH (National

⁶ Alternative shutdown capability is provided by rerouting, relocating or modifying of existing systems; dedicated shutdown capability is provided by installing new structures and systems for the function of post-fire shutdown.

Institute for Occupational Safety and Health—approval formerly given by the U.S. Bureau of Mines) shall be provided for fire brigade, damage control, and control room personnel. At least 10 masks shall be available for fire brigade personnel. Control room personnel may be furnished breathing air by a manifold system piped from a storage reservoir if practical. Service or rated operating life shall be a minimum of one-half hour for the self-contained units.

At least two extra air bottles shall be located on site for each self-contained breathing unit. In addition, an onsite 6-hour supply of reserve air shall be provided and arranged to permit quick and complete replenishment of exhausted supply air bottles as they are returned. If compressors are used as a source of breathing air, only units approved for breathing air shall be used; compressors shall be operable assuming a loss of offsite power. Special care must be taken to locate the compressor in areas free of dust and contaminants.

I. Fire Brigade Training

The fire brigade training program shall ensure that the capability to fight potential fires is established and maintained. The program shall consist of an initial classroom instruction program followed by periodic classroom instruction, fire fighting practice, and fire drills:

1. Instruction

a. The initial classroom instruction shall include:

(1) Indoctrination of the plant fire fighting plan with specific identification of each individual's responsibilities.

(2) Identification of the type and location of fire hazards and associated types of fires that could occur in the plant.

(3) The toxic and corrosive characteristics of expected products of combustion.

(4) Identification of the location of fire fighting equipment for each fire area and familiarization with the layout of the plant, including access and egress routes to each area.

(5) The proper use of available fire fighting equipment and the correct method of fighting each type of fire. The types of fires covered should include fires in energized electrical equipment, fires in cables and cable trays, hydrogen fires, fires involving flammable and combustible liquids or hazardous process chemicals, fires resulting from construction or modifications (welding), and record file fires.

(6) The proper use of communication, lighting, ventilation, and emergency breathing equipment.

(7) The proper method for fighting fires inside buildings and confined spaces.

(8) The direction and coordination of the fire fighting activities (fire brigade leaders only).

(9) Detailed review of fire fighting strategies and procedures.

(10) Review of the latest plant modifications and corresponding changes in fire fighting plans.

Note.—Items (9) and (10) may be deleted from the training of no more than two of the non-operations personnel who may be assigned to the fire brigade.

b. The instruction shall be provided by qualified individuals who are knowledgeable,

experienced, and suitably trained in fighting the types of fires that could occur in the plant and in using the types of equipment available in the nuclear power plant.

c. Instruction shall be provided to all fire brigade members and fire brigade leaders.

d. Regular planned meetings shall be held at least every 3 months for all brigade members to review changes in the fire protection program and other subjects as necessary.

e. Periodic refresher training sessions shall be held to repeat the classroom instruction program for all brigade members over a two-year period. These sessions may be concurrent with the regular planned meetings.

2. Practice

Practice sessions shall be held for each shift fire brigade on the proper method of fighting the various types of fires that could occur in a nuclear power plant. These sessions shall provide brigade members with experience in actual fire extinguishment and the use of emergency breathing apparatus under strenuous conditions encountered in fire fighting. These practice sessions shall be provided at least once per year for each fire brigade member.

3. Drills

a. Fire brigade drills shall be performed in the plant so that the fire brigade can practice as a team.

b. Drills shall be performed at regular intervals not to exceed 3 months for each shift fire brigade. Each fire brigade member should participate in each drill, but must participate in at least two drills per year.

A sufficient number of these drills, but not less than one for each shift fire brigade per year, shall be unannounced to determine the fire fighting readiness of the plant fire brigade, brigade leader, and fire protection systems and equipment. Persons planning and authorizing an unannounced drill shall ensure that the responding shift fire brigade members are not aware that a drill is being planned until it is begun. Unannounced drills shall not be scheduled closer than four weeks.

At least one drill per year shall be performed on a "back shift" for each shift fire brigade.

c. The drills shall be preplanned to establish the training objectives of the drill and shall be critiqued to determine how well the training objectives have been met. Unannounced drills shall be planned and critiqued by members of the management staff responsible for plant safety and fire protection. Performance deficiencies of a fire brigade or of individual fire brigade members shall be remedied by scheduling additional training for the brigade or members. Unsatisfactory drill performance shall be followed by a repeat drill within 30 days.

d. At 3-year intervals, a randomly selected unannounced drill shall be critiqued by qualified individuals independent of the licensee's staff. A copy of the written report from such individuals shall be available for NRC review.

e. Drills shall as a minimum include the following:

(1) Assessment of fire alarm effectiveness, time required to notify and assemble fire

brigade, and selection, placement and use of equipment, and fire fighting strategies.

(2) Assessment of each brigade member's knowledge of his or her role in the fire fighting strategy for the area assumed to contain the fire. Assessment of the brigade member's conformance with established plant fire fighting procedures and use of fire fighting equipment, including self-contained emergency breathing apparatus, communication equipment, and ventilation equipment, to the extent practicable.

(3) The simulated use of fire fighting equipment required to cope with the situation and type of fire selected for the drill. The area and type of fire chosen for the drill should differ from those used in the previous drill so that brigade members are trained in fighting fires in various plant areas. The situation selected should simulate the size and arrangement of a fire that could reasonably occur in the area selected, allowing for fire development due to the time required to respond, to obtain equipment, and organize for the fire, assuming loss of automatic suppression capability.

(4) Assessment of brigade leader's direction of the fire fighting effort as to thoroughness, accuracy, and effectiveness.

4. Records

Individual records of training provided to each fire brigade member, including drill critiques, shall be maintained for at least 3 years to ensure that each member receives training in all parts of the training program. These records of training shall be available for NRC review. Retraining or broadened training for fire fighting within buildings shall be scheduled for all those brigade members whose performance records show deficiencies.

J. Emergency Lighting

Emergency lighting units with at least an 8-hour battery power supply shall be provided in all areas needed for operation of safe shutdown equipment and in access and egress routes thereto.

K. Administrative Controls

Administrative controls shall be established to minimize fire hazards in areas containing structures, systems, and components important to safety. These controls shall establish procedures to:

1. Govern the handling and limitation of the use of ordinary combustible materials, combustible and flammable gases and liquids, high efficiency particulate air and charcoal filters, dry ion exchange resins, or other combustible supplies in safety-related areas.

2. Prohibit the storage of combustibles in safety-related areas or establish designated storage areas with appropriate fire protection.

3. Govern the handling of and limit transient fire loads such as combustible and flammable liquids, wood and plastic products, or other combustible materials in buildings containing safety-related systems or equipment during all phases of operating, and especially during maintenance, modification, or refueling operations.

4. Designate the onsite staff member responsible for the inplant fire protection review of proposed work activities to identify potential transient fire hazards and specify

required additional fire protection in the work activity procedure.

5. Govern the use of ignition sources by use of a flame permit system to control welding, flame cutting, brazing, or soldering operations. A separate permit shall be issued for each area where work is to be done. If work continues over more than one shift, the permit shall be valid for not more than 24 hours when the plant is operating or for the duration of a particular job during plant shutdown.

6. Control the removal from the area of all waste, debris, scrap, oil spills, or other combustibles resulting from the work activity immediately following completion of the activity, or at the end of each work shift, whichever comes first.

7. Maintain the periodic housekeeping inspections to ensure continued compliance with these administrative controls.

8. Control the use of specific combustibles in safety-related areas. All wood used in safety-related areas during maintenance, modification, or refueling operations (such as lay-down blocks or scaffolding) shall be treated with a flame retardant. Equipment or supplies (such as new fuel) shipped in untreated combustible packing containers may be unpacked in safety-related areas if required for valid operating reasons.

However, all combustible materials shall be removed from the area immediately following the unpacking. Such transient combustible material, unless stored in approved containers, shall not be left unattended during lunch breaks, shift changes, or other similar periods. Loose combustible packing material such as wood or paper excelsior, or polyethylene sheeting shall be placed in metal containers with tight-fitting self-closing metal covers.

9. Control actions to be taken by an individual discovering a fire, for example, notification of control room, attempt to extinguish fire, and actuation of local fire suppression systems.

10. Control actions to be taken by the control room operator to determine the need for brigade assistance upon report of a fire or receipt of alarm on control room annunciator panel, for example, announcing location of fire over PA system, sounding fire alarms, and notifying the shift supervisor and the fire brigade leader of the type, size, and location of the fire.

11. Control actions to be taken by the fire brigade after notification by the control room operator of a fire, for example, assembling in a designated location, receiving directions from the fire brigade leader, and discharging specific fire fighting responsibilities including selection and transportation of fire fighting equipment to fire location, selection of protective equipment, operating instructions for use of fire suppression systems, and use of preplanned strategies for fighting fires in specific areas.

12. Define the strategies for fighting fires in all safety-related areas and areas presenting a hazard to safety-related equipment. These strategies shall designate:

a. Fire hazards in each area covered by the specific prefire plans.

b. Fire extinguishants best suited for controlling the fires associated with the fire

hazards in that area and the nearest location of these extinguishants.

c. Most favorable direction from which to attack a fire in each area in view of the ventilation direction, access hallways, stairs, and doors that are most likely to be free of fire, and the best station or elevation for fighting the fire. All access and egress routes that involve locked doors should be specifically identified in the procedure with the appropriate precautions and methods for access specified.

d. Plant systems that should be managed to reduce the damage potential during a local fire and the location of local and remote controls for such management (e.g., any hydraulic or electrical systems in the zone covered by the specific fire fighting procedure that could increase the hazards in the area because of overpressurization or electrical hazards).

e. Vital heat-sensitive system components that need to be kept cool while fighting a local fire. Particularly hazardous combustibles that need cooling should be designated.

f. Organization of fire fighting brigades and the assignment of special duties according to job title so that all fire fighting functions are covered by any complete shift personnel complement. These duties include command control of the brigade, transporting fire suppression and support equipment to the fire scenes, applying the extinguishant to the fire, communication with the control room, and coordination with outside fire departments.

g. Potential radiological and toxic hazards in fire zones.

h. Ventilation system operation that ensures desired plant air distribution when the ventilation flow is modified for fire containment or smoke clearing operations.

i. Operations requiring control room and shift engineer coordination or authorization.

j. Instructions for plant operators and general plant personnel during fire.

1. Alternative and Dedicated Shutdown Capability

1. Alternative or dedicated shutdown capability provided for a specific fire area shall be able to achieve and maintain subcritical reactivity conditions in the reactor, maintain reactor coolant inventory achieve and maintain hot standby⁷ conditions for a PWR (hot shutdown⁷ for a BWR) and achieve cold shutdown⁷ conditions within 72 hours and maintain cold shutdown conditions thereafter. During the postfire shutdown, the reactor coolant system process variables shall be maintained within those predicted for a loss of normal a.c. power, and the fission product boundary integrity shall not be affected; i.e., there shall be no fuel clad damage, rupture or any primary coolant boundary, or rupture of the containment boundary.

2. The performance goals for the shutdown functions shall be:

a. The reactivity control function shall be capable of achieving and maintaining cold shutdown reactivity conditions.

b. The reactor coolant makeup function shall be capable of maintaining the reactor

coolant level above the top of the core for BWRs and be within the level indication in the pressurizer for PWRs.

c. The reactor heat removal function shall be capable of achieving and maintaining decay heat removal.

d. The process monitoring function shall be capable of providing direct readings of the process variables necessary to perform and control the above functions.

e. The supporting functions shall be capable of providing the process cooling, lubrication, etc., necessary to permit the operation of the equipment used for safe shutdown functions.

3. The shutdown capability for specific fire areas may be unique for each such area, or it may be one unique combination of systems for all such areas. In either case, the alternative shutdown capability shall be independent of the specific fire area(s) and shall accommodate postfire conditions where offsite power is available and where offsite power is not available for 72 hours. Procedures shall be in effect to implement this capability.

4. If the capability to achieve and maintain cold shutdown will not be available because of fire damage, the equipment and systems comprising the means to achieve and maintain the hot standby or hot shutdown condition shall be capable of maintaining such conditions until cold shutdown can be achieved. If such equipment and systems will not be capable of being powered by both onsite and offsite electric power systems because of fire damage, an independent onsite power system shall be provided. The number of operating shift personnel, exclusive of fire brigade members, required to operate such equipment and systems shall be on site at all times.

5. Equipment and systems comprising the means to achieve and maintain cold shutdown conditions shall not be damaged by fire; or the fire damage to such equipment and systems shall be limited so that the systems can be made operable and cold shutdown achieved within 72 hours. Materials for such repairs shall be readily available on site and procedures shall be in effect to implement such repairs. If such equipment and systems used prior to 72 hours after the fire will not be capable of being powered by both onsite and offsite electric power systems because of fire damage, an independent onsite power system shall be provided. Equipment and systems used after 72 hours may be powered by offsite power only.

6. Shutdown systems installed to ensure postfire shutdown capability need not be designed to meet seismic Category I criteria, single failure criteria, or other design basis accident criteria, except where required for other reasons, e.g., because of interface with or impact on existing safety systems, or because of adverse valve actions due to fire damage.

7. The safe shutdown equipment and systems for each fire area shall be known to be isolated from associated non-safety circuits in the fire area so that hot shorts, open circuits, or shorts to ground in the associated circuits will not prevent operation of the safe shutdown equipment. The

separation and barriers between trays and conduits containing associated circuits of one safe shutdown division and trays and conduits containing associated circuits or safe shutdown cables from the redundant division, or the isolation of these associated circuits from the safe shutdown equipment, shall be such that a postulated fire involving associated circuits will not prevent safe shutdown.⁸

M. Fire Barrier Cable Penetration Seal Qualification

Penetration seal designs shall utilize only noncombustible materials and shall be qualified by tests that are comparable to tests used to rate fire barriers. The acceptance criteria for the test shall include:

1. The cable fire barrier penetration seal has withstood the fire endurance test without passage of flame or ignition of cables on the unexposed side for a period of time equivalent to the fire resistance rating required of the barrier;

2. The temperature levels recorded for the unexposed side are analyzed and demonstrate that the maximum temperature is sufficiently below the cable insulation ignition temperature; and

3. The fire barrier penetration seal remains intact and does not allow projection of water beyond the unexposed surface during the hose stream test.

N. Fire Doors

Fire doors shall be self-closing or provided with closing mechanisms and shall be inspected semiannually to verify that automatic hold-open, release, and closing mechanisms and latches are operable.

One of the following measures shall be provided to ensure they will protect the opening as required in case of fire:

1. Fire doors shall be kept closed and electrically supervised at a continuously manned location;

2. Fire doors shall be locked closed and inspected weekly to verify that the doors are in the closed position;

3. Fire doors shall be provided with automatic hold-open and release mechanisms and inspected daily to verify that doorways are free of obstructions; or

4. Fire doors shall be kept closed and inspected daily to verify that they are in the closed position.

The fire brigade leader shall have ready access to keys for any locked fire doors.

Areas protected by automatic total flooding gas suppression systems shall have electrically supervised self-closing fire doors or shall satisfy option 1 above.

O. Oil Collection System for Reactor Coolant Pump

The reactor coolant pump shall be equipped with an oil collection system if the containment is not inerted during normal operation. The oil collection system shall be so designed, engineered, and installed that failure will not lead to fire during normal or design basis accident conditions and that

⁸ An acceptable method of complying with this alternative would be to meet Regulatory Guide 1.75 position 4 related to associated circuits and IEEE Std 384-1974 (Section 4.5) where trays from redundant safety divisions are so protected that postulated fires affect trays from only one safety division.

⁷ As defined in the Standard Technical Specifications.

there is reasonable assurance that the system will withstand the Safe Shutdown Earthquake.⁹

Such collection systems shall be capable of collecting lube oil from all potential pressurized and unpressurized leakage sites in the reactor coolant pump lube oil systems. Leakage shall be collected and drained to a vented closed container that can hold the entire lube oil system inventory. A flame arrester is required in the vent if the flash point characteristics of the oil present the hazard of fire flashback. Leakage points to be protected shall include lift pump and piping, overflow lines, lube oil cooler, oil fill and drain lines and plugs, flanged connections on oil lines, and lube oil reservoirs where such features exist on the reactor coolant pumps. The drain line shall be large enough to accommodate the largest potential oil leak. (Sec. 161b, Pub. L. 83-703, 68 Stat. 948; sec. 201, Pub. L. 93-438, 88 Stat. 1242 (42 U.S.C. 2201(b), 5841))

Dated at Washington, D.C., this 17th day of November 1980.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 80-36175 Filed 11-18-80; 8:45 am]

BILLING CODE 7590-01-M

⁹ See Regulatory Guide 1.29—"Seismic Design Classification" Paragraph C.2.

Environmental Protection Agency Federal Register

Wednesday
November 19, 1980

Part III

Environmental Protection Agency

**Hazardous Waste Management System:
Mining and Cement Kiln Wastes
Exemptions; Small Quantity Generator
Standards; Generator Waste
Accumulation Amendment; Hazardous
Waste Spill Response Exemption, and
Clarification of Interim Status
Requirements**

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 261**

[SWH-FRL 1675-1]

Identification and Listing of Hazardous Waste**AGENCY:** Environmental Protection Agency.**ACTION:** Interim final amendment to rule with request for comments.

SUMMARY: This regulation amends the hazardous waste regulations (40 CFR § 261.4(b)) to exclude from regulation under Subtitle C of the Resource Conservation and Recovery Act (1) solid waste from the extraction, beneficiation and processing of ores and minerals (including coal), including phosphate rock and overburden from the mining of uranium ore and (2) cement kiln dust wastes. This action is being taken to bring the regulation into conformance with Section 7 of the recently enacted Solid Waste Disposal Act Amendments of 1980. The Agency, for the time being, is interpreting the scope of these exclusions broadly but is unsure that this interpretation is consistent with the intent of the Congress. Therefore, over the next 90 days, it intends to carefully examine the legislative history of the statutory amendment and consider the public comments being solicited by this action. Based on this review, the Agency, in subsequent rulemaking action, may further narrow the exclusion being promulgated today.

DATE: Effective Date: November 19, 1980.

Comment Date: This amendment is promulgated as an interim final rule. The Agency will accept comments on it until January 19, 1981.

ADDRESSES: Comments on the amendment should be sent to Docket Clerk (Docket No. 3001), Office of Solid Waste (WH-565), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: For general information, contact Alfred W. Lindsey, Office of Solid Waste, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (202) 755-9185. For information on implementation, contact:

Region I, Dennis Huebner, Chief, Radiation, Waste Management Branch, John F. Kennedy Building, Boston, Massachusetts 02203, (617) 223-5777

Region II, Dr. Ernest Regna, Chief, Solid Waste Branch, 26 Federal Plaza, New York, New York 10007, (212) 264-0504/5

Region III, Robert L. Allen, Chief, Hazardous Materials Branch, 6th and Walnut Streets,

Philadelphia, Pennsylvania 19106, (215) 597-0980

Region IV, James Scarbrough, Chief, Residuals Management Branch, 345 Courtland Street NE., Atlanta, Georgia 30365, (404) 881-3016

Region V, Karl J. Klepitsch, Jr., Chief, Waste Management Branch, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6148

Region VI, R. Stan Jorgensen, Acting Chief, Solid Waste Branch, 1201 Elm Street, First International Building, Dallas, Texas 75270, (214) 787-2645

Region VII, Robert L. Morby, Chief, Hazardous Materials Branch, 324 E. 11th Street, Kansas City, Missouri 64106, (816) 374-3307

Region VIII, Lawrence P. Gazda, Chief, Waste Management Branch, 1860 Lincoln Street, Denver, Colorado 80203, (303) 837-2221

Region IX, Arnold R. Den, Chief, Hazardous Materials Branch, 215 Fremont Street, San Francisco, California 94105, (415) 556-4606

Region X, Kenneth D. Feigner, Chief, Waste Management Branch, 1200 Sixth Avenue, Seattle, Washington 98101, (206) 442-1260

SUPPLEMENTARY INFORMATION:**I. Reason and Basis for Today's Amendments**

On May 19, 1980, EPA promulgated regulations implementing Subtitle C of the Resource Conservation and Recovery Act (RCRA). See 45 FR 33066-33588. These regulations define solid wastes and hazardous wastes and establish requirements applicable to generators, transporters, treaters, storers and disposers of hazardous wastes. These regulations also require owners and operators of hazardous waste treatment, storage and disposal facilities to obtain RCRA permits.

The definition of solid waste is provided in § 261.2 of these regulations. The definition of hazardous waste is provided in § 261.3 of these regulations. Both definitions are sufficiently broad to include many solid wastes generated in the extraction, beneficiation and processing of ores and minerals, exclusive of mining overburden returned to the mine site (see § 261.4(b)(3).) Specifically, eight mining and mineral processing wastes (EPA hazardous waste Nos. FO13-FO15 and KO64-KO68) were listed as hazardous wastes in §§ 261.31 and 261.32 of the May 19 regulations (see 45 FR 33123-33124). In addition, other mining and mineral processing wastes may be hazardous wastes because they exhibit one or more of the characteristics of hazardous wastes in Subpart C of Part 261. By virtue of these definitions, a number of mining and mineral processing wastes will be subject to the regulations on November 19, 1980, the effective date of the regulations.

Additionally, some cement kiln dust waste could be hazardous waste under the regulations, if it exhibits any of the characteristics of hazardous waste in Subpart C of Part 261. Thus, some cement kiln dust waste may be subject to the regulations on and after November 19, 1980.

In Section 7 of the recently enacted Solid Waste Disposal Act Amendments of 1980 (P.L. 94-482, October 21, 1980), the Congress amended Section 3001 of RCRA to prohibit EPA from regulating certain wastes under Subtitle C of RCRA until after completion of certain studies and certain rulemaking. Among these wastes are (1) "solid waste from the extraction, beneficiation and processing of ores and minerals, including phosphate rock and overburden from the mining of uranium ore" and (2) "cement kiln dust waste." Accordingly EPA is today amending its regulations, at § 261.4, to incorporate this statutory change.

Several trade associations, representing the mining and cement industries, have asked EPA to amend its regulations by November 19, 1980, the effective date of these regulations, to incorporate the 1980 amendments concerning these wastes. In addition these associations have sought a clarification of the scope of the exclusion, particularly regarding the types of mining operations that are excluded. The statutory exclusion of mining wastes in Section 3001(b)(3) is limited to "solid waste from the extraction, beneficiation and processing of ores and minerals." One mining trade association has argued that this exclusion covers wastes from the exploration, mining, milling, smelting and refining of ores and minerals (including coal.)

In the interest of providing the mining and cement industries clear guidance on whether they are subject to the regulations, EPA is amending the regulations before the November 19 date. At the same time EPA questions whether the Section 3001(b)(3) was to be interpreted as broadly as the trade associations suggest. To resolve these questions, the Agency will have to examine carefully the legislative history and consult with the mining and cement industries and the public. The Agency could not accomplish this by November 19, 1980, given the extremely large workload with which it is burdened in developing the Phase II regulations, in responding to other requests for regulatory amendments and interpretations, and in responding to petitions for judicial review of the regulations.

Consequently, the Agency has decided to provide an immediate but temporary accommodation of the requests on this matter by promulgating today interim final amendments to § 261.4(b) which provide the requested exclusion using the language of the statutory amendments. Until the Agency takes further rulemaking action on this matter, it will interpret the language of today's amendments, with respect to the mining and mineral processing waste exclusion, to include solid waste from the exploration, mining, milling, smelting and refining of ores and minerals.

This exclusion does not, however, apply to solid wastes, such as spent solvents, pesticide wastes, and discarded commercial chemical products, that are not uniquely associated with these mining and allied processing operations, or cement kiln operations. Therefore, should either industry generate any of these non-indigenous wastes and the waste is identified or listed as hazardous under Part 261 of the regulations, the waste is hazardous and must be managed in conformance with the Subtitle C regulations.

II. Intended Reconsideration of Today's Amendments

The Agency fully intends to consider the appropriate scope of the statutory exclusion and may well take rulemaking action to lessen the scope of the exclusion being promulgated today. To aid in this consideration, the Agency is soliciting public comments on this matter. In particular EPA questions whether Congress intended to exclude (1) wastes generated in the smelting, refining and other processing of ores and minerals that are further removed from the mining and beneficiation of such ores and minerals, (2) wastes generated during exploration for mineral deposits and (3) wastewater treatment and air emission control sludges generated by the mining and mineral processing industry. EPA specifically seeks comment on whether such wastes should be part of the exclusion. EPA also seeks comment on how it might distinguish between excluded and non-excluded solid wastes.

If EPA narrows the scope of the exclusion being promulgated today in future rulemaking, those who generate, transport, store, treat or dispose of wastes affected by such a change will have six months to prepare for compliance with the regulations. This six month delay in the effective date is provided under authority of Section 3010(b) of RCRA.

In addition to the consideration of the scope of the exclusion discussed above,

the Agency will be considering regulatory amendments to implement other provisions of Section 3001(b)(3). Section 3001(b)(3)(B) recognizes EPA authority to issue regulations under Section 2002 of RCRA to place requirements on owners and operators of disposal sites for excluded wastes. These requirements concern identification and recording of information on the location of disposal sites as well as on the composition of the wastes that are disposed. EPA also invites public comment on how it should formulate such requirements.

III. Effect of Today's Amendments

Today's amendments relieve persons who generate or manage hazardous wastes produced in, and unique to, the exploration, mining, milling, smelting or refining of ores or minerals and persons who generate or manage a cement kiln dust waste from having to comply with EPA's regulations under Subtitle C of RCRA with respect to these wastes. Owners and operators of existing treatment, storage and disposal facilities do not have to submit a Part A, RCRA permit application by November 19, 1980, or comply with the interim status standards of Part 265 after November 19, 1980, with respect to such wastes. Also, owners and operators of new facilities for the treatment, storage or disposal of the subject wastes will not have to apply for and obtain a RCRA permit before constructing or operating such facilities.

Today's action does not relieve persons who generate or manage those wastes herein discussed from compliance with other Federal and State regulations including State regulations designed to implement Subtitle D of RCRA and State regulations being implemented in lieu of the Federal Subtitle C regulations where the State has interim or full authorization under Section 3006 of RCRA.

IV. Relationship to Final Listing of Certain Hazardous Waste in §§ 261.31 and 261.32

On November 12, 1980, in a separate rulemaking action (see 45 FR 74884), the Agency has finalized the list of most of the hazardous wastes listed in §§ 261.31 and 261.32. Included in this action was finalization of seven of the mining and mineral processing wastes mentioned above (EPA hazardous waste nos. F014-15 and K064-68). One of the wastes previously mentioned (F013) was deleted from the list of hazardous waste (§ 261.31) in that separate action. Because of the Agency's uncertainty with respect to the scope of the statutory amendments, as discussed

above, it has gone ahead with the finalization of the aforementioned listed wastes. Notwithstanding, the effect of today's action is to suspend those final listings of hazardous wastes, unless and until the Agency reduces the scope of today's exclusion in subsequent rulemaking action.

V. Coal Mining Waste

The Solid Waste Disposal Act Amendments of 1980 also included special provisions (Sections 1006(c) and 3005(f)) designed to coordinate regulation of coal mining waste with the requirements of the Surface Mining Control and Reclamation Act, 30 U.S.C. § 1201 *et seq.* EPA believes that these provisions present problems of legal interpretation which cannot be resolved by November 19, 1980. The Agency may seek public comment on its interpretation of those provisions in later rulemaking actions. This interim final rule does not attempt to interpret the scope of Sections 1006(c) and 3005(f). However, since coal is arguably a "mineral or ore" under Section 3001(b)(3), wastes from the extraction, beneficiation and processing of coal are excluded from RCRA Subtitle C regulation in today's amendment to § 261.4(b). Until EPA has had an opportunity to analyze the intended scope of the exclusion, the terms "extraction, beneficiation and processing" will be interpreted broadly to include coal exploration, mining, cleaning, classification, and other processing activities. As with other elements of this exclusion, EPA will be examining this exclusion, particularly the exclusions for classification, and other processing activities, in more detail later and may decide to narrow its scope.

VI. Effective Date

Section 3010(b) of RCRA provides that EPA's hazardous waste regulations and revisions thereto take effect six months after their promulgation. The purpose of this requirement is to allow persons handling hazardous wastes sufficient lead time to prepare to comply with major new regulatory requirements. The amendments promulgated today, however, serve to put in regulatory form what is already stated in statute. To establish a deferred effective date would only serve to confuse the regulated community. Consequently, the Agency is establishing an immediate effective date for this amendment.

VII. Request for Comments

The Agency invites comments on these amendments and on the issues discussed in this preamble and,

therefore, is providing a 60-day comment period.

Dated: November 14, 1980.

Douglas M. Costle,
Administrator.

Title 40 of the Code of Federal Regulations is amended by adding the following paragraphs to § 261.4(b):
§ 261.4 [Amended]

(b) * * *

(6) Solid waste from the extraction, beneficiation and processing of ores and minerals (including coal), including phosphate rock and overburden from the mining of uranium ore.

(7) Cement kiln dust waste.

These amendments are issued under the authority of Sections 1006, 2002(a) and 3001 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6905, 6912(a) and 6921.

[FR Doc. 80-36129 Filed 11-18-80; 8:45 am]

BILLING CODE 6560-30-M

40 CFR Parts 261 and 262

[SWH-FRL 1675-3]

Hazardous Waste Management System: Identification and Listing of Hazardous Waste Standards for Generators of Hazardous Waste

AGENCY: Environmental Protection Agency.

ACTION: Interim final rules and request for comments.

SUMMARY: In regulations promulgated in May, 1980, establishing a federal program for the management of hazardous wastes, EPA excluded from full regulation persons handling hazardous wastes generated in small quantities (40 CFR 261.5, 45 FR 33066, 33120 (May 19, 1980)). This amendment clarifies the operation of the special requirements for hazardous waste generated by small quantity generators. Part 262 of the regulations has also been amended to ensure that these generators determine whether their wastes are hazardous.

DATE: Effective Date: November 19, 1980.

Comment Date: EPA will accept public comments on this regulation until January 19, 1981.

ADDRESSES: Comments on this regulation should be sent to the Docket Clerk [Docket Number 3001], Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

The public docket for this regulation is located in Room 2711, U.S.

Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. and is available for viewing from 9 a.m. to 4 p.m. Monday through Friday, excluding holidays. Among other items, the docket contains the background document for this regulation which has been revised to accommodate these amendments.

FOR FURTHER INFORMATION CONTACT:

Robert Holloway, Office of Solid Waste, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 755-9200.

SUPPLEMENTARY INFORMATION:

I. Introduction

Pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976, as amended ("RCRA"), 42 U.S.C. § 6901 *et seq.*, EPA recently promulgated regulations establishing a comprehensive regulatory program for the management and control of hazardous wastes (45 FR 33066 (May 19, 1980)). The regulations, among other things, identify the characteristics of hazardous wastes, list particular wastes as hazardous, and establish standards for generators and transporters of hazardous waste and owners and operators of hazardous waste management facilities.

The regulations also define special requirements for hazardous waste generated by generators who produce less than 1,000 kilograms of hazardous waste during a calendar month. (See 40 CFR 261.5, 45 FR 33120). Hazardous waste generated by a small quantity generator is generally excluded from full regulation provided the generator stores, treats, or disposes of his hazardous waste in facilities specified as acceptable or ensures that his hazardous waste is delivered to such facilities. However, if a small quantity generator generates or accumulates acutely hazardous waste in quantities greater than specified, or if he accumulates more than a total of 1,000 kilograms of hazardous waste at any time, all quantities of hazardous wastes for which an exclusion level is exceeded are fully regulated.

Since the publication of the regulation, members of the regulated community have raised a number of questions concerning the operation of the small quantity exclusion. EPA has been persuaded that, in certain respects, the regulation is ambiguous and does not clearly address certain situations. In addition, the regulation contains certain technical errors which would cause the exclusion to operate in a manner not intended by the Agency or contrary to

the manner explained in the preamble to the regulation and the supporting materials. This amendment to the regulation is intended to clarify the original regulation and to correct the errors contained in it.

The revisions to the small quantity generator exclusion principally concern five aspects of the regulation: the determination of who is a small quantity generator; the requirements applicable to hazardous waste accumulated on-site; the requirements applicable to acutely hazardous wastes; the conditions applicable to wastes excluded from full regulation; and the requirements applicable to mixtures. The changes to the regulation are described in this preamble. The underlying rationale and basis for § 261.5 remain unchanged and are set forth in the preamble to the May regulation. (See 45 FR at 33102-33105.)

The background document supporting the requirements for small quantity generators has been revised to explain in greater detail the operation of § 261.5. In addition to describing the changes made by today's amendments, the background document provides guidance on the operation of regulations applicable to the small quantity generator.

It should be noted that the Agency has received a petition from the National Solid Waste Management Association ("NSWMA") which requests the Agency to make substantive revisions to § 261.5. EPA has noticed and requested comments on the petition. (45 FR 68409 (October 15, 1980).) The amendment to § 261.5 published today does not constitute the Agency's response to the NSWMA petition. EPA's action with regard to that petition will be the subject to further notice and/or rulemaking.

II. Amendments to the Regulation

A. Determination of Small Quantity Generator Status.

Section 261.5(a) of the May regulation set forth the general test for determining who may qualify as a small quantity generator:

* * * if a person generates, in a calendar month, a total of less than 1,000 kilograms of hazardous wastes, those wastes are not subject to regulation * * *

Since publication of the regulation, persons have raised two questions basic to the operation of this section: (a) should the section be keyed to generators rather than persons; and (b) what wastes should be counted in determining the amount of waste generated in a calendar month? The regulation has been revised to resolve both of these questions.

Although it was EPA's intent to key the exclusion levels established in § 261.5 to individual generation sites, the May 19, 1980 regulation refers to "persons" rather than "generators". As these terms are defined in § 260.10 of this Chapter, a corporation (i.e., a person) may comprise numerous facilities that generate hazardous waste, (i.e., generators). Read literally, therefore, § 261.5 makes the Subtitle C regulations and the notification requirements of Section 3010 of RCRA fully applicable to a company which generates, in the aggregate, more than the quantity exclusion level but each of whose facilities generates less than that amount. The revised regulation replaces the prior reference to "persons" with "generators," making it clear that individual facilities which generate hazardous waste in a quantity below the exclusion levels may qualify as small quantity generators.

To provide further clarification, the amended regulation defines a small quantity generator as a generator who generates less than 1000 kilograms of hazardous waste in a calendar month. Thus, this amended regulation makes clear that a generator may be a small quantity generator in one month and a large quantity generator in another month. The recordkeeping and reporting requirements of Part 262 apply, however, only to those periods in which the generator's hazardous waste is subject to full regulation under Part 262. Thus, for example, the annual report of a generator whose waste is subject to full regulation under Part 262 for three months in a year would cover the generator's activity only for those three months.

The second issue resolved by the amended regulation concerns which hazardous wastes should be counted in determining whether a generator generates 1000 kilograms of hazardous waste in a calendar month. One question is how the exclusion of hazardous wastes that are used, re-used, recycled or reclaimed under § 261.6 relates to the § 261.5 requirements. Another set of questions focuses on the potential double-counting of wastes by a generator who removes waste from on-site storage or whose on-site treatment of wastes generates hazardous waste.

The small quantity generator requirements have been revised by the addition of a new paragraph, § 261.5(c), to clarify which hazardous wastes that are being used, re-used, recycled or reclaimed are included in determining small generator status. Section 261.6(a) excludes from regulation wastes that are hazardous because they meet EPA

characteristics and that are beneficially used or re-used or legitimately recycled or reclaimed. Wastes that are excluded under § 261.6(a) are not included in the quantity determination of § 261.5. Section 261.6(b), however, makes sludges, listed hazardous wastes, and hazardous wastes containing listed hazardous wastes subject to full regulation during storage and transportation prior to their use, re-use, recycling or reclamation. Because these wastes are subject to Subtitle C regulation, the revised § 261.5 makes clear that these wastes must be included in the quantity determination and are subject to the other requirements of that section. Although this is a result that a careful reading of the May regulation would support, the revised § 261.5 should resolve any ambiguity on this issue.

A number of persons stated that use of the word "generates" in § 261.5 creates some uncertainty about what wastes should be counted in determining eligibility for small quantity generator status. These commenters believed that, without clarification, the rule might lead to double-counting of wastes when they are also treated or stored on-site. If, for example, a generator's manufacturing process generated 600 kilograms of hazardous waste in a month, and he placed that waste in storage, persons were uncertain whether, when that waste was removed from storage, the 600 kilograms was to be counted again in the quantity determination. Counting this quantity a second time would have the effect of substantially lowering the exclusion levels. A new paragraph, § 261.5(d), has been added to make it clear that a generator counts his hazardous waste only when he first generates it. He is not required to count the waste again when he removes it from on-site accumulation or storage¹ or when he produces a hazardous waste from the on-site treatment of his hazardous waste. The amendment is intended to avoid double-counting of wastes and therefore extends only to the on-site treatment or storage of hazardous wastes generated by the small quantity generator. If the generator receives hazardous waste from another person for treatment, the hazardous waste generated by the treatment process must be counted in the generator's quantity determination.

B. Requirements Applicable to Hazardous Waste Accumulated On-site.

¹ Under the definition of generation, removal from storage is not an act or process that produces a hazardous waste, although it is an act which may subject a waste to regulation. The Agency intends to publish regulations on this subject in the near future.

Section 261.5(b) of the May regulation states that if a generator accumulates more than 1000 kilograms of hazardous waste, these wastes are subject to full Subtitle C regulation. Acutely hazardous wastes, when accumulated, are subject to the lower exclusion limits specified in § 261.5(c) of the May 19, 1980, regulation. After the publication of the regulation, persons questioned how the regulation would apply: whether the generator would be able to use the provisions of § 262.34 allowing on-site storage without a permit for 90 days prior to shipment of the wastes to treatment, storage or disposal facilities; and, if so, how the provisions of that section apply to small quantity generators.

A new paragraph, § 261.5(f), clarifies the manner in which hazardous wastes are regulated when the accumulation limit is exceeded. Because the regulation allows indefinite and unregulated storage of wastes in quantities less than 1000 kilograms, the Agency believes it unreasonable to make this 90 day period start at the time the waste was first generated. Such a result would place generators who exceed the accumulation levels but whose accumulation began more than 90 days prior to exceeding the 1000 kilogram level immediately in violation of the regulatory requirements by storing wastes without a permit or without interim status under Section 3005(e) of RCRA. The revised § 261.5(f) states that at the time the allowable accumulation limit is exceeded, the waste becomes fully regulated and § 262.34 becomes applicable. Section 262.34 provides the generator 90 days to remove the waste from on-site storage without the necessity of having either a permit or interim status for that storage. To take advantage of § 262.34, however, the generator must satisfy the conditions of that section. This will ensure that the generator handles the waste in a satisfactory manner while providing him some time to arrange for proper treatment, storage or disposal.

The revised regulation also clarifies that once the accumulated amounts exceed 1000 kilograms, all of those wastes and those subsequently added to that accumulation are fully regulated until all the waste is sent to a hazardous waste treatment, storage or disposal facility. This rule means that those wastes remain subject to full regulation even if the quantity of wastes accumulated or stored becomes less than 1000 kilograms. In addition, those wastes remain fully regulated regardless of when the wastes are removed from storage or accumulation and regardless of whether the generator is a small

quantity generator in the month they are removed from storage. Certain persons thought that only the amount exceeding 1000 kilograms was subject to regulation. This position was not, however, supported by the language in the May regulation which stated that, if a person accumulates more than 1000 kilograms, "those accumulated wastes" would be subject to full regulation. The revised language should resolve any ambiguity that may have been created by the original language. The provisions for acutely hazardous waste apply similarly.

C. Requirements Applicable to Acutely Hazardous Waste.

Section 261.5(c) of the May regulation sets lower exclusion levels for acutely hazardous discarded chemical products, their off-specification variants, containers and inner liners that held these wastes, and residue and debris resulting from spills of these wastes. The revised regulation, § 261.5(e), clarifies two ambiguities in the regulation: (a) whether the exclusion levels apply to the total amount of acutely hazardous waste generated and (b) whether the exclusion levels apply only to small quantity generators.

With respect to the first question, the language of the regulation has been revised to state that the exclusion levels apply to the aggregate of all of the acutely hazardous wastes subject to a particular exclusion. Thus, if a generator discards in a calendar month 0.5 kilograms of one commercial chemical product listed in § 262.33(e) and 0.5 kilogram each of two other listed commercial chemical products, the total 1.5 kilograms of acutely hazardous wastes would be subject to full Subtitle C regulation. The exclusion thus applies to acutely hazardous wastes in the same manner as it applies to other hazardous wastes. The rationale for aggregating wastes to determine the amount of wastes generated applies with equal force to acutely hazardous waste as to other hazardous waste. The need for full regulatory control of these wastes is the same whether the total is comprised of one listed substance or three such substances.

Second, the regulation is revised to clarify that the lower exclusion levels for acutely hazardous waste apply only to generators who otherwise are deemed small quantity generators. The Agency believes that a generator who produces more than 1000 kilograms of hazardous waste a month and is therefore subject to full regulation should handle his acutely hazardous wastes in the same manner as his other wastes. The basis for the exclusion levels is the administrative impossibility of EPA

regulating all generators of hazardous waste. If a generator is subject to regulation on the basis of generating more than 1000 kilograms of hazardous waste, there is no reason to exclude from regulation his small quantities of those wastes which the Agency has identified as acutely hazardous. There will be no additional drain in the administrative demands placed on the Agency and the protection of human health and the environment will be significantly increased.

A final change to § 261.5 has been made with respect to acutely hazardous wastes. Section 261.5(c) of the May regulation established exclusion levels for containers and inner liners that held acutely hazardous waste. A new section, 261.7, has been added to the regulations under separate rulemaking that excludes "empty" containers from regulation. If a container or inner liner that has held acutely hazardous waste is empty, it is not subject to regulation and not subject to the exclusion levels set in § 261.5. The residues of acutely hazardous waste in nonempty containers or inner liners are subject to the exclusion levels of § 261.5(g) and the requirements of the section. The reference to containers and inner liners that appeared in § 261.5(c) of the May regulations is deleted.

D. Conditions Applicable to Waste Excluded from Full Regulation.

Section 261.5(d) of the May regulation specified the facilities in which hazardous waste excluded from full regulation could be managed. The Agency inadvertently omitted facilities that beneficially use or re-use, or legitimately recycle or reclaim waste from the list of acceptable facilities. The Congressional policy of promoting resource recovery, as implemented by the Subtitle C regulatory program in § 261.6, would not be served by denying to small quantity generators the same opportunity to use, re-use, recycle or reclaim their waste which is provided to other generators. Accordingly, the regulation is revised to allow small quantity generators to treat or dispose of their waste in such facilities. The regulation is also redesignated § 261.5(g).

Section 261.5(g) has also been revised to state that hazardous waste must be stored on-site in accordance with § 261.5(f). This latter paragraph, as described above, covers the accumulation and storage of wastes on-site. This revision merely reiterates that storing or accumulating wastes on-site under § 261.5(f) is allowed.

Today's amendments make one additional technical correction to the May regulations. Section 261.5(d)

required generators, as a condition of the exclusion from full regulation, to determine under § 262.11 whether their wastes were hazardous. Section 262.11(a), however, stated that, if a generator determined that he was subject only to § 261.5, he did not have to determine whether his waste was hazardous. The Agency has corrected this inconsistency by deleting the reference to § 261.5 in § 262.11. The generator of solid waste must determine whether his waste is hazardous before determining whether his waste is conditionally excluded under § 261.5 from full regulation. Without such a determination the generator of hazardous wastes would not know whether any of the Subtitle C requirements, including the reduced requirements, apply to the waste nor whether, if the exclusion levels were exceeded, the full requirements would apply.

E. Requirements Applicable to Mixtures.

Section 261.5(e) of the May regulation established a special mixture provision for hazardous wastes which were excluded from full regulation by § 261.5. This provision is redesignated as § 261.5(h) and has not been revised.

A new paragraph, § 261.5(i), is added to make clear that mixtures of solid waste and hazardous wastes which have exceeded an exclusion level are subject to full Subtitle C regulation. Pursuant to § 261.3(a)(3)(ii), a mixture of solid waste and hazardous wastes is a hazardous waste. Members of the regulated community have asked what exclusion level applies to the mixture; for example, whether a mixture containing an acutely hazardous waste that has exceeded an exclusion level remains subject to the lower exclusion levels applicable to that waste. This new paragraph clarifies that the lower exclusion level applies. A contrary result would encourage generators to mix acutely hazardous wastes subject to full regulation (i.e., because they are generated or accumulated in quantities greater than one kilogram) with other hazardous excluded wastes (e.g., those generated in quantities of less than 1000 kilograms a month) and thus escape the regulatory controls which the Agency has determined are essential for the safe handling and management of hazardous wastes.

III. Effective Date

Section 3010(b) of RCRA provides that EPA's hazardous waste regulations and revisions thereto take effect six months after their promulgation. The purpose of this requirement is to allow persons handling hazardous wastes sufficient

lead time to prepare to comply with major new regulatory requirements. For the amendment to § 261.5 promulgated today, however, the Agency believes that an effective date six months after promulgation would cause substantial and unnecessary disruption in the implementation of the regulations and would be contrary to the interests of the regulated community and the public. The amended regulation is an integral part of a regulatory program that becomes effective on November 19, 1980. In addition, the principal revisions to the regulation simply clarify and make technical corrections to the regulation. The revisions also allow greater flexibility in the manner in which small quantity generators handle their hazardous waste.

The Agency believes it makes little sense to allow the small quantity generator requirements promulgated on May 19, 1980, to become effective on November 19, 1980, and then to have them substantially revised on a subsequent date by this amendment. Clarification of regulatory requirements and increasing their flexibility are not the types of regulation revision that Congress had in mind when it provided a six month delay between the promulgation and the effective date of revisions to regulations. Consequently, the Agency is setting an effective date of November 19, 1980, for the amendments to §§ 261.5 and 262.11 promulgated in this rulemaking action.

IV. Promulgation in Interim Final Form

These amendments to § 261.5 are designed principally to clarify the manner in which the regulations published in May of 1980 are to operate. EPA has received many questions on the regulation. These questions indicated that there is substantial confusion on the part of the regulated community about the exclusion of generators of small quantities of hazardous waste. Absent immediate effectuation of these clarifying amendments, EPA believes that this confusion will persist after the effective date of the Subtitle C regulations, November 19, 1980. This confusion will lead, EPA believes, to real and substantial hardship for persons subject to the reduced requirements of § 261.5. If uncertain about the rule's application or operation, many responsible generators of hazardous waste may unnecessarily comply with the full Subtitle C regulations. Immediate implementation of the amendment small quantity generator requirements is necessary in order to avoid inadvertently imposing substantial burdens on literally thousands of generators who are

uncertain whether they are excluded from full regulation under § 261.5. Given the real and substantial cost that delay might create, the Agency finds good cause to promulgate these rules without prior notice and opportunity for comment.

V. Request for Comments

The Agency invites comments on all aspects of these amendments to the regulations and on all issues discussed in this preamble. EPA is hopeful that the regulations as revised are reasonable, understandable, and workable. The Agency will be receptive to comments which would improve the regulation.

VI. Regulatory Impacts

The effect of these amendments is to reduce the overall costs, economic impact and reporting and recordkeeping impacts of EPA's hazardous waste management regulations. This is achieved by clarifying the operation of the regulations and increasing their flexibility. The Agency is unable to estimate these reductions.

Dated: November 14, 1980.

Douglas M. Costle,
Administrator.

Title 40 of the Code of Federal Regulations is amended as follows:

1. Section 261.5 is revised to read as follows:

§ 261.5 Special requirements for hazardous waste generated by small quantity generators.

(a) A generator is a small quantity generator in a calendar month if he generates less than 1000 kilograms of hazardous waste in that month.

(b) Except for those wastes identified in paragraphs (e) and (f) of this section, a small quantity generator's hazardous wastes are not subject to regulation under Parts 262 through 265 and Parts 122 and 124 of this chapter, and the notification requirements of Section 3010 of RCRA, provided the generator complies with the requirements of paragraph (g) of this section.

(c) Hazardous waste that is beneficially used or re-used or legitimately recycled or reclaimed and that is excluded from regulation by § 261.6(a) is not included in the quantity determinations of this section, and is not subject to any requirements of this section. Hazardous waste that is subject to the special requirements of § 261.6(b) is included in the quantity determinations of this section and is subject to the requirements of this section.

(d) In determining the quantity of hazardous waste he generates, a generator need not include:

(1) His hazardous waste when it is removed from on-site storage; or

(2) Hazardous waste produced by on-site treatment of his hazardous waste.

(e) If a small quantity generator generates acutely hazardous waste in a calendar month in quantities greater than set forth below, all quantities of that acutely hazardous waste are subject to regulation under Parts 262 through 265 and Parts 122 and 124 of this chapter, and the notification requirements of Section 3010 of RCRA:

(1) A total of one kilogram of a commercial chemical products and manufacturing chemical intermediates having the generic names listed in § 261.33(e), and off-specification commercial chemical products and manufacturing chemical intermediates which, if they met specifications, would have the generic names listed in § 261.33(e); or

(2) A total of 100 kilograms of any residue or contaminated soil, water or other debris resulting from the clean-up of a spill, into or on any land or water, of any commercial chemical products or manufacturing chemical intermediates having the generic names listed in § 261.33(e).

(f) A small quantity generator may accumulate hazardous waste on-site. If he accumulates at any time more than a total of 1000 kilograms of his hazardous waste, or his acutely hazardous wastes in quantities greater than set forth in paragraphs (e)(1) or (e)(2) of this section, all of those accumulated wastes for which the accumulation limit was exceeded are subject to regulation under Parts 262 through 265 and Parts 122 and 124 of this chapter, and the notification requirements of Section 3010 of RCRA. The time period of § 262.34 for accumulation of wastes on-site begins for a small quantity generator when the accumulated wastes exceed the applicable exclusion level.

(g) In order for hazardous waste generated by a small quantity generator to be excluded from full regulation under this section, the generator must:

(1) Comply with § 262.11 of this chapter;

(2) If he stores his hazardous waste on-site, store it in compliance with the requirements of paragraph (f) of this section; and

(3) Either treat or dispose of his hazardous waste in an on-site facility, or ensure delivery to an off-site storage, treatment or disposal facility, either of which is:

(i) Permitted under Part 122 of this chapter;

(ii) In interim status under Parts 122 and 265 of this chapter;

(iii) Authorized to manage hazardous waste by a State with a hazardous waste management program approved under Part 123 of this chapter;

(iv) Permitted, licensed or registered by a State to manage municipal or industrial solid waste; or

(v) A facility which:

(A) Beneficially uses or re-uses, or legitimately recycles or reclaims his waste; or

(B) Treats his waste prior to beneficial use or re-use, or legitimate recycling or reclamation.

(h) Hazardous waste subject to the reduced requirements of this section may be mixed with non-hazardous waste and remain subject to these reduced requirements even though the resultant mixture exceeds the quantity limitations identified in this section, unless the mixture meets any of the characteristics of hazardous wastes identified in Subpart C.

(i) If a small quantity generator mixes a solid waste with a hazardous waste that exceeds a quantity exclusion level of this section, the mixture is subject to full regulation.

2. Section 262.11(a) is revised to read as follows:

§ 262.11 Hazardous waste determination.

(a) He should first determine if the waste is excluded from regulation under 40 CFR 261.4.

* * *

These amendments are issued under the authority of Sections 1006, 2002(a) and 3002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6905, 6912(a), and 6922.

[FR Doc. 80-36130 Filed 11-18-80; 8:45 am]

BILLING CODE 6560-30-M

40 CFR Part 262

[SWH-FRC 1675-4]

Hazardous Waste Management System; Standards Applicable to Generators of Hazardous Waste

AGENCY: Environmental Protection Agency.

ACTION: Interim final rule and request for comments.

SUMMARY: In regulations promulgated in May, 1980, establishing a federal program for the management of hazardous wastes, EPA placed requirements on generators of hazardous waste that accumulated their waste on the site of generation prior to shipment to off-site hazardous waste management facilities [40 CFR § 262.34,

45 FR 33066, 33143 (May 19, 1980)]. One of these requirements was that a generator ship all accumulated waste off-site in 90 days or less. This amendment eliminates the distinction between accumulation for on-site and off-site treatment, storage or disposal, provided that, within 90 days, the waste is sent to a hazardous waste management facility that is either permitted or in interim status. The other requirements of § 262.34 are not changed by this rule.

DATES: Effective Date: This requirement is effective on November 19, 1980.

Comment date: Comments are due January 19, 1981.

ADDRESSES: Comments should be addressed to the Docket Clerk (Docket 3002), Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Rolf Hill, Office of Solid Waste, (WH-563), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (202) 755-9145.

SUPPLEMENTARY INFORMATION:

I. Introduction

In regulations promulgated in February and May, 1980, EPA established standards applicable to generators of hazardous waste. 40 CFR Part 262, 45 FR 12722 (February 26, 1980), 45 FR 33140 (May 19, 1980). These standards, among other things, require generators to initiate a manifest to track the movement of hazardous waste, maintain records, and provide proper containers, labels and placards for the transportation of hazardous waste. Most of these requirements apply only to generators who send their hazardous wastes off the site of generation for treatment, storage or disposal. Some of these requirements, however, apply to generators who treat, store or dispose of their wastes on the site of generation. (See 40 CFR 262.10(b)).

Recognizing that many generators would accumulate hazardous waste for a period of time prior to shipping the waste to an off-site hazardous waste management facility, EPA set special requirements in § 262.34 which, if met by the generator, would allow him to accumulate the waste on-site without having to obtain a RCRA permit for a storage facility under Part 122 of the regulations or comply with the applicable standards under Parts 264 and 265 of the regulations.

The basis and rationale for these special 90-day accumulation rules appear in the preambles to, and the background documents supporting, the

generator regulations first published in February, 1980, and then revised in May, 1980. See 45 FR 12722, 12730 (February 26, 1980) and 45 FR 33140, 33141 (May 19, 1980). By allowing short-term accumulation without a permit, the regulation reflects the congressional intent that the RCRA program not interfere with the manufacturing process. See H.R. Rep. No. 94-1491, 94th Cong. 2d Sess. 26 (Sept. 9, 1976). Generation of hazardous waste necessarily requires some accumulation of that waste prior to taking it to a hazardous waste management facility. On the basis of information received in the comment period, the Agency selected ninety days as a period that provided sufficient time for such accumulation to occur in all reasonable situations.

Holding hazardous waste for a short period, however, entails many of the same risks to human health and environment as long-term storage, and therefore the Agency imposed specific requirements for short-term accumulation. The special requirements of § 262.34 require the generator to (1) ship the wastes off-site within 90 days; (2) place the waste in containers or tanks meeting specified technical standards; (3) mark the date accumulation began on the container or tank; (4) properly label and mark the containers; and, (5) comply with the Part 265 regulations concerning preparedness and prevention, contingency plans and emergency procedures. These requirements are designed to ensure that short-term accumulation of hazardous wastes will be done in a manner that ensures protection of human health and the environment.

Since the publication of the regulations, members of the regulated community have raised two questions that are basic to the application and operation of this regulation. First, these persons have stated that the distinction between accumulation of hazardous waste prior to off-site shipment and accumulation prior to on-site treatment, storage or disposal is arbitrary and that the 90-day accumulation provision should apply to both types of accumulation. Second, these persons have stated that although the special 90-day accumulation requirements of § 262.34 may be appropriate for the more centralized areas and facilities where hazardous wastes are accumulated prior to off-site transport or ultimate on-site disposition, they are more stringent than necessary for the accumulation and very short-term storage of wastes at areas where the wastes are generated and initially

accumulated—often in small containers—prior to movement to the more centralized on-site accumulation and storage areas.

The amendment being promulgated today responds to the first of these concerns. For reasons discussed below, however, EPA believes that more information is necessary prior to ascertaining the need for amending the regulations to respond to the second concern.

II. On-site Accumulation Prior to On-site Treatment, Storage or Disposal

The effect of the current regulations is to allow one class of generators (i.e., those who ship their wastes off-site) to "accumulate" their waste for up to 90 days without having a permit or interim status and to require all other generators (i.e., those who treat, store and dispose of the wastes on-site) to obtain a RCRA permit or interim status for the same activity. The standards applicable to both classes, however, are similar. Generators who accumulate waste on-site under § 262.34 would have to store their wastes in compliance with virtually all of the technical requirements of Part 265 and also satisfy many of the general requirements of that Part, e.g., prepare contingency plans and emergency procedures. The principal difference the Agency had discerned between these two classes of generators was that the areas used for accumulation by the generator who performed such activities on-site would be included in their permit covering the other on-site treatment, storage and disposal facilities. In addition, certain provisions of the Part 265 regulations apply to the accumulation areas of generators who manage their wastes on-site; these include security, financial responsibility, closure and post-closure requirements.

EPA now believes, however, that the regulations as currently written impose substantially different requirements for generators who ship their wastes off-site as opposed to those who do not. These differences do not appear warranted. The most important of these differences concerns eligibility for interim status if short-term accumulation is considered storage for generators who treat, store or dispose of their wastes on-site. To obtain interim status a storage facility must be "in existence" on November 19, 1980. Section 3005(e), 42 U.S.C. § 6925(e) as amended by the Solid Waste Disposal Act Amendments of 1980, P.L. 96-482 (October 21, 1980). A generator who sends his wastes off-site would be able to construct a new loading dock or storage shed for short-term accumulation; a generator who does not

send his wastes off-site could not construct a new loading dock (i.e., a new storage facility) without obtaining a RCRA permit. Second, although applying for a permit for these accumulation areas may not entail significant increased burden, the terms and conditions of the permit could impose requirements beyond those required for generators who ship their wastes off-site. In addition, other differences between on-site accumulation and on-site storage may emerge as the regulations are interpreted and applied.

EPA believes that there is no basis for the distinction and accordingly has amended the requirement of § 262.34(a)(1) that accumulated wastes be shipped off-site within 90 days. The requirements of § 262.34 are designed to ensure protection of human health and the environment during short-term accumulation. The destination of the waste does not change the protection that this rule ensures. Section 262.34 requires that wastes that are accumulated on-site still must, within 90 days, go to treatment, storage or disposal facilities which are permitted or in interim status. The regulation now provides that such facilities may be on-site as well as off-site; the manner of regulation and the degree of environmental control is the same for these facilities.

The selection of a 90-day period in the original rule reflected the maximum accumulation time that the Agency thought was necessary prior to transporting wastes off-site. The generator does not wholly control the timing of the transportation because arrangements have to be made with the transporter and the hazardous waste management facility. The situation is obviously different if the generator is sending his waste to a treatment, storage or disposal facility located on the site of generation. In this situation, the generator has greater control over the handling of the waste and the timing of its shipment. The Agency solicits information on whether given this difference whether a shorter period, say 30 days, should be provided for generators who subsequently send their wastes to an on-site treatment, storage or disposal facility.

III. Application of Requirements to All Accumulation Areas

In promulgating the regulations establishing the requirements for on-site accumulation, EPA assumed that accumulation generally would occur in discrete areas in the manufacturing complex where wastes would be held prior to shipment to a treatment, storage

or disposal facility. Technical standards for tanks or containers, the preparation of contingency plans and similar requirements are appropriate for loading docks, storage buildings and sheds, and other areas in a manufacturing complex where hazardous wastes are collected and accumulated.

Members of the regulated community, however, have pointed out that, within a manufacturing complex, there may be dozens of places where hazardous wastes are collected during daily operations prior to taking a container containing hazardous waste to the loading dock or other accumulation area. These commenters have questioned the appropriateness of applying the requirements of § 262.34 to each place where hazardous wastes may be initially collected.

EPA believes, however, that the requirements of § 262.34 are appropriate for both centralized and satellite accumulation areas. The Agency, however, is soliciting information on whether, in some situations, different requirements should govern these accumulation activities.

Whether at satellite or centralized accumulation areas, the hazardous waste requires proper management in order to minimize the threat to human health and the environment. The requirements of § 262.34 are designed to provide such protection. Containers that meet DOT specifications and tanks that meet Part 265 design and operating requirements appear necessary and appropriate for the accumulation of hazardous waste regardless of whether the accumulation occurs at a centralized facility or in different places within a plant. The other requirements of § 262.34 similarly appear appropriate to all accumulation activities on the site of generation; these include marking and labeling containers; weekly inspections of containers; locating of containers holding ignitable and reactive wastes away from the property line; requirements concerning preparedness and prevention, contingency plans and emergency response and personnel training. The protection that these requirements ensure appear appropriate and necessary wherever hazardous wastes are accumulated.

The Agency recognizes that there may be certain situations in which the requirements of § 262.34 might not work well for the initial collection and accumulation of hazardous waste. For example, the Agency does not expect a company to engage in major reconstruction of a facility simply to be able to fit a DOT container beneath a hard-to-reach leaky pipe. The Agency does, however, want to ensure that all

hazardous waste, once generated, are safely and properly handled. The Agency requests comments on situations in which the requirements of § 262.34 may be inappropriate and on the manner in which EPA should handle such situations.

IV. Effective Date

Section 3010(b) of RCRA provides that EPA's hazardous waste regulations and revisions thereto take effect six months after their promulgation. The purpose of this requirement is to allow persons handling hazardous wastes sufficient lead time to prepare to comply with major new regulatory requirements. For the amendments to § 262.34 promulgated today, however, the Agency believes that an effective date six months after promulgation would cause substantial and unnecessary disruption in the implementation of the regulations and would be contrary to the interests of the regulated community and the public. The regulatory provision that this amendment modifies takes effect on November 19, 1980. In the absence of the immediate effectuation of this amendment, generators who accumulate wastes for on-site treatment, storage or disposal must prepare to operate these facilities as fully regulated hazardous waste storage facilities on and after November 19, 1980. This would include preparation and submission of a Part A permit application covering the accumulation area.

The Agency believes it makes little sense to allow the requirements promulgated on May 19, 1980, to become effective on November 19, 1980, and then have them substantially modified on a subsequent date, i.e., the six-month effective date for these amendments. Leasing of regulatory requirements is not the type of revision to regulations for which Congress intended a six-month delay occur between its promulgation and effective date. Consequently, the Agency is setting an effective date of November 19, 1980, for the amendment to § 262.34 promulgated in this rulemaking action.

V. Interim Final Promulgation

This regulation is being promulgated in interim final form. The reasons for taking this exceptional procedure are similar to those supporting the immediate effective date. The delay involved in initiating normal rulemaking would cause substantial hardship on generators who treat, store or dispose of their hazardous wastes on-site. During the pendency of rulemaking, these generators would not be able to construct new accumulation areas in their manufacturing facilities without

obtaining a RCRA permit. Because such areas are intimately tied to the manufacturing process itself, such a delay might in effect create a prohibition of redesign and reconstruction of these manufacturing units.

Although the Agency does not adopt this procedure lightly, the circumstances indicate that the use of interim final promulgation is appropriate. As one court has noted "[i]t is an appropriate safety valve to be used where delay would do real harm." *U.S. Steel Corp. v. EPA*, 595 F.2d 207, 214 (5th Cir., 1979). EPA believes that the effect of delaying promulgation of this amendment would cause substantial, and unnecessary, hardship on a large number of manufacturing operations. In this situation, the use of advance notice and comment procedures would be contrary to the public interest and therefore good cause exists for adopting this amendment in interim final form. See 5 U.S.C. § 553(b)(B).

VII. Request for Comments

The Agency invites comments on all aspects of this amendment to the regulation and on all the issues discussed in this preamble. The Agency has recently requested comments of one aspect of § 262.34, its applicability to product storage tanks. 45 CFR 72024 (October 30, 1980). The Agency will consider all comments received on § 262.34 prior to promulgating this rule in final form. EPA desires to formulate sound and sensible regulations concerning the proper handling of hazardous waste. The requirements of § 262.34 are an important aspect of this broader concern, and, if commenters have suggestions on ways to improve this regulation, the Agency would be receptive to their suggestions.

VIII. Regulatory Impacts

The effect of this amendment is to reduce the overall costs, economic impact and reporting and recordkeeping impacts of EPA's hazardous waste management regulations. This is achieved by removing accumulation areas of generators who send accumulated wastes to on-site disposal facilities from full regulation as storage facilities. The Agency is unable to estimate these cost and impact reductions because it does not have an estimate of the number of such areas that otherwise would be fully regulated. For the reasons already discussed, notwithstanding these cost and impact reductions, the Agency believes that human health and environmental protection will not be reduced by this action.

Dated: November 14, 1980.

Douglas M. Costle,
Administrator.

Title 40 of the Code of Federal Regulations is amended as follows:

§ 262.34 [Amended]

1. In § 262.34, paragraph (a)(1) is revised to read as follows.

(a) A generator may accumulate hazardous waste on-site without a permit or without having interim status, provided that:

(1) All such waste is, within 90 days, shipped off-site to a designated facility or placed in an on-site facility that is permitted under Part 122 of this Chapter, has interim status under Parts 122 of this Chapter, or is authorized to manage hazardous waste by a State with a hazardous waste management program approved under Part 123 of this Chapter.

These amendments are issued under the authority of Sections 1006, 2002(a), 3002, 3003, 3004 and 3005 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6905, 6912(a), 6922, 6923, 6924 and 6925.

[FR Doc. 80-36131 Filed 11-18-80; 8:45 am]

BILLING CODE 6560-30-M

40 CFR Parts 122, 260, 264 and 265

[SWH-FRL 1675-5]

Hazardous Waste Management System

AGENCY: Environmental Protection Agency.

ACTION: Interim final rule and request for comments.

SUMMARY: In regulations promulgated in May of 1980, the Environmental Protection Agency ("EPA") established a comprehensive program for the handling and management of hazardous wastes. 45 FR 33066 (May 19, 1980). The regulations, among other things, set forth substantive requirements for the treatment and storage of hazardous wastes and require owners and operators of treatment and storage facilities to have Resource Conservation and Recovery Act (RCRA) permits or interim status pursuant to Parts 265 and 122 of the regulations. Certain activities which persons may take in response to spills of hazardous wastes or materials which, when spilled, become hazardous waste might be considered treatment (e.g., absorption, neutralization) or storage (e.g., diking, containment). In this action EPA makes clear that the requirements for treatment and storage are not applicable to actions taken to

immediately contain and treat spills of hazardous wastes and materials which, when spilled, become hazardous waste. This action also adds a definition of spill in §§ 260.10 and 122.3.

DATES: Effective date: These amendments become effective on November 19, 1980.

Comment Date: The Agency will accept comments on these amendments until January 19, 1981.

ADDRESS: Comments on these amendments should be addressed to the Docket Clerk (Docket 3004, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

For general information, contact Amy Mills, Office of Solid Waste (WH-563), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. For information on implementation, contact:

Region I, Dennis Hueber, Chief, Radiation, Waste Management Branch, John F. Kennedy Building, Boston, Massachusetts 02203, (617) 223-5777

Region II, Dr. Ernest Regna, Chief, Solid Waste Branch, 26 Federal Plaza, New York, New York 10007, (212) 264-0504/5

Region III, Robert L. Allen, Chief, Hazardous Materials Branch, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106, (215) 597-0980

Region IV, James Scarbrough, Chief, Residuals Management Branch, 345 Courtland Street, N.E., Atlanta, Georgia 30365, (404) 881-3016

Region V, Karl J. Klepitsch, Jr., Chief, Waste Management Branch, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6148

Region VI, R. Stan Jorgensen, Acting Chief, Solid Waste Branch, 1201 Elm Street, First International Building, Dallas, Texas 75270, (214) 787-2645

Region VII, Robert L. Morby, Chief, Hazardous Materials Branch, 324 E. 11th Street, Kansas City, Missouri 64106, (816) 347-3307

Region VIII, Lawrence P. Gazda, Chief, Waste Management Branch, 1860 Lincoln Street, Denver, Colorado 80203, (303) 837-2221

Region IX, Arnold R. Den, Chief, Hazardous Materials Branch, 215 Fremont Street, San Francisco, California 94105, (415) 556-4806

Region X, Kenneth D. Feigner, Chief, Waste Management Branch, 1200 Sixth Avenue, Seattle, Washington 98101, (206) 442-1260

SUPPLEMENTARY INFORMATION:

I. Introduction

In May of 1980, EPA promulgated regulations implementing Subtitle C of the Resource Conservation and Recovery Act of 1976, as amended ("RCRA"). These regulations, among other things, identify and list hazardous wastes (Part 261), establish standards for generators and transporters of hazardous waste (Parts 262 and 263), and set standards and permit requirements for owners and operators of facilities that treat, store or dispose of hazardous waste (Parts 264 and 265 and Parts 122 and 124). 45 FR 33066 (May 19, 1980). These regulations are designed to ensure the proper handling and management of hazardous wastes from their generation through their ultimate disposition.

Because wastes may be produced, handled and disposed of in a large number of ways, the regulations necessarily are cast in broad terms. A generator is anyone whose act or process produces a hazardous waste or whose action first causes a hazardous waste to become subject to regulation. Section 260.10(a), 45 FR 72024 (October 30, 1980). This act or process may be the manufacture of goods or materials, service operations such as cleaning with chemical solvents listed in § 261.31, or the discard of commercial chemical products listed § 261.33. Storage is defined as "the holding of hazardous waste for a temporary period . . .", and treatment as "any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such waste, or so as to render such waste nonhazardous, or less hazardous; safer to transport, store or dispose of; or amenable for recovery, amenable for storage, or reduced in volume." Section 260.10(a).

This action concerns how the regulations apply to hazardous wastes that are created by spills of hazardous waste or materials which, when spilled, become hazardous waste. For reasons discussed below, the word "spill" is defined in the amendments published today as "the accidental spilling, leaking, pumping, pouring, emitting, emptying, or dumping of hazardous waste or material which, when spilled, becomes hazardous waste into or on any land or water." This definition obviously covers spills of those hazardous waste listed in §§ 261.31 and 261.32 and those solid wastes that exhibit any of the characteristics of hazardous wastes defined in Subpart C of Part 261. This definition also covers spills of the commercial chemical

products and manufacturing chemical intermediates listed in § 261.33 (e) and (f). The Agency interprets spills of these materials to constitute discarding of such materials (see definitions in § 261.2 (c) and (d)). These materials, when discarded, are hazardous waste (see § 261.33). In addition, other materials, when spilled, are considered solid waste because spilling constitutes discarding and may exhibit the characteristic of hazardous waste defined in Subpart C of Part 261.

Members of the regulated community have asked whether certain activities taken in immediate response to such spills constitute treatment (e.g., neutralizing the hazardous waste) or storage (e.g., containing the waste in order to prevent its spread). These questions have significant practical implications. Treatment and storage of hazardous wastes, under the regulations, must be carried out in facilities that have interim status under Section 3005(e) of RCRA and 40 CFR Part 122 or that have a storage or treatment permit from EPA or a State authorized to run a hazardous waste program under Section 3006.¹ Spills are sudden, unplanned events. In many cases, the treatment or storage necessary to respond to spills will not be covered by a RCRA permit or interim status. This is particularly true for generators who do not treat, store or dispose of hazardous waste and transporters who would have neither a permit nor interim status. It also may be true for owners and operators of treatment, storage or disposal facilities where their permit or interim status may not cover the types of treatment or storage performed in responding to a particular spill. Persons responding to the spills would be placed in the uncomfortable position of taking actions necessary to protect human health and the environment while being in violation of RCRA.²

In addition, Parts 264 and 265 set forth the manner in which persons may treat

¹ Under § 122.27 the Regional Administrator is authorized to issue emergency permits if there is an imminent and substantial endangerment to human health or the environment to allow the treatment, storage or disposal of hazardous waste for a nonpermitted facility or activities not covered by a permit. § 122.27 set forth procedures governing the issuance of emergency permits. EPA is presently developing guidance for the issuance of these permits.

² Hazardous wastes produced in small quantities are excluded from full Subtitle C regulation under § 261.5. A condition of that exclusion, however, is that wastes subject to § 261.5 must be managed in Subtitle C facilities, facilities approved by the State, or use, re-use, recycling or reclamation facilities. Thus, even for spills by small quantity generators, the same dilemma is posed for persons whose response might constitute treatment or storage.

or store hazardous wastes. With respect to chemical, physical, and biological treatment, for example, the regulations prescribe such things as general operating requirements, waste analysis and trail tests, inspections, and closure requirements. See 40 CFR 265 Subpart Q. If, for example, reagents are used to absorb or neutralize a chemical product listed in § 261.33 which has spilled in a plant, the treatment requirements specified in the regulations would technically govern the response to the spill.

This amendment is designed to allow appropriate responses to spills of hazardous wastes without being limited by the treatment and storage standards and the permit and interim status requirements of the regulations. It should be noted that EPA is developing regulations which will address in more comprehensive fashion the application of the RCRA regulations to spill response activities. That rulemaking will clarify, among other things, relationship of RCRA and other Federal statutes, particularly the Clean Water Act and the Hazardous Materials Transportation Act, which concern spill activities.

II. What These Amendments Do

The amendments published today add three new elements to the regulations published in May, 1980: they add a definition of spill; exempt immediate containment and treatment activities from the Part 264 and 265 regulations governing treatment and storage; and, amend Part 122 to indicate that such activities do not have to be covered by a RCRA permit or interim status.

The definition of "spill" is the same as the definition of "discharge" in § 260.10(a), except that the word "intentional" has been deleted from the definition of spill and the phrase "material which, when spilled, becomes hazardous waste" has been added. The exclusion from regulation provided in today's amendments is designed to allow persons to respond immediately to sudden, unplanned occurrences, i.e., accidents, which release materials or wastes into the environment. There does not appear to be any basis to extend today's action to intentional releases which might occur. Releases which occur from burst pipes and ruptured containers would be considered spills; releases which routinely occur from, for example, scheduled maintenance of machinery would not be. The Agency specifically requests comment on whether the definition of spills provides appropriate scope for the substantive amendments published today. For purposes of the RCRA portions of the consolidated permit regulations, a

corresponding definition of spill has been added to § 122.3.

The amendments to Parts 264 and 265 state that treatment and containment actions taken in immediate response to spills are not considered treatment or storage of hazardous waste. These response activities are not subject, therefore, to the detailed requirements of those parts governing treatment and storage. The amendment to § 122.21 indicates that these activities do not have to be covered by a RCRA permit.

The amendments only cover activities during the immediate response to a spill. As discussed below, once this response is accomplished, other regulatory provisions apply. Section IV of this preamble provides examples of how these amendments and the other regulatory provisions apply to spill situations. These amendments are designed to allow persons to respond immediately to spills which may pose dangers to human health and the environment. If the Agency believes that anyone is abusing this provision, it will not hesitate to bring enforcement actions, including, under appropriate circumstances, criminal prosecutions.

III. Regulations not Affected by This Amendment

The purpose of today's amendments is to allow persons to treat and contain spills without having engaged in treatment and storage activities and to recognize that spills occur at places which might otherwise not be treatment and storage facilities. These amendments do not affect whether the spilled substance, residue or debris is a hazardous waste or not; Part 261 will govern. They do not affect in any way the application of the generator and transporter requirements; Parts 262 and 263 will govern these activities. After the immediate response activities are completed, the hazardous waste is subject to all the requirements for transportation, treatment, storage, or disposal.

The regulations promulgated in May, 1980, explicitly place specific requirements for certain spills of hazardous waste—discharges occurring during transportation and releases occurring at on-site accumulation areas and in treatment, storage and disposal facilities. These regulations, described briefly below, are unaffected by the amendments published today. These amendments complement the regulations by clarifying that actions taken in response to spills and in compliance with those regulations are not subject to the treatment and storage regulations and do not have to be carried out at a treatment or storage

facility with a RCRA permit or in interim status.

Discharges of hazardous waste during transportation are subject to the provisions of Part 263 concerning immediate action, reporting, and cleanup. 40 CFR 263.30 and 263.31, 45 FR 12744 (February 26, 1980), republished at 45 FR 33152 (May 19, 1980). Discharges of hazardous materials during transportation are also subject to the reporting provisions of DOT regulations under the Hazardous Materials Transportation Act. 49 CFR 171.15, 171.16. These regulations will apply to spills during transportation and these requirements are not affected by today's amendment.

The Part 264 and 265 regulations contain extensive requirements for hazardous waste management facilities concerning preparedness and prevention, and contingency plans and emergency procedures. 40 CFR Part 265, Subparts C and D, 45 FR 33236, 33237 (May 19, 1980). To ensure proper response to explosions, fires, and other releases of hazardous waste, these provisions require owners and operators of regulated facilities to have safety equipment and systems, arrangements with relevant local authorities, a contingency plan and emergency procedures covering response activities. These regulations continue to apply to releases at hazardous waste management facilities which present dangers to human health and the environment. For example, §§ 264.56 and 265.56, concerning emergency procedures, have not been exempted. The emergency coordinator must follow the procedures set forth in those sections. Today's amendment simply means that actions taken, for example, under § 265.56(e), are not subject to the treatment and storage requirements of Part 265.

Regulations promulgated under other Federal, state or local laws may apply to spills of hazardous waste and other materials. On the Federal level, two examples are Section 311 of the Clean Water Act and the Hazardous Materials Transportation Act. Under Section 311 of the Clean Water Act, discharges of oils and hazardous substances (which may also be hazardous wastes) are subject to regulation. Hazardous materials, as regulated by DOT under the Hazardous Materials Transportation Act, include hazardous wastes. See 45 FR 3451 (May 22, 1980). The amendments published today concern only RCRA requirements and in no way affect a person's obligations or responsibilities under any other applicable Federal, state or local law.

IV. Examples of How These Amendments Operate

The following examples illustrate the manner in which the amendments published today operate and tie in with the other RCRA regulations.

1. A manufacturer spills a commercial chemical product listed in § 261.33(e) on the floor of his plant. He immediately uses a reagent to absorb or neutralize the spill, whose residue amounts to more than 100 kilograms. He places the residue in containers for subsequent transportation off-site. What regulations apply?

The manufacturer is a generator of a hazardous waste—the spilled chemical as well as the resulting residue. He is not a small quantity generator because he has generated more than 100 kilograms of § 261.33(e) residue. See 40 CFR § 261.5(e)(2). His use of the reagent is not subject to treatment regulations of Parts 264 and 265 and this use does not have to be covered by a RCRA permit or interim status. Once the immediate response is over, however, he becomes subject to the generator requirements of Part 262. These include requirements for accumulation on-site, use of EPA identification numbers prior to transporting the residue off-site, initiation of the manifest, and use of appropriate packaging, labelling, marking and placarding.³ Manufacturers who anticipate such spills may, as a precautionary measure, make necessary arrangements to comply with the Part 262 regulations in advance. And, the transportation and subsequent treatment, storage or disposal of the spill residue is subject to the requirements of Parts 263, 264, 265 and 122.

2. A tank used to accumulate hazardous waste (under the requirements of § 262.34) ruptures and the wastes spill on to the ground. Because the tank does not have a secondary containment system, the generator immediately builds an emergency dike to contain the spilled waste. He subsequently pumps the spilled waste into drums and, after

several weeks, ships those drums off-site to an incinerator.

The design, construction and operation of the emergency containment dike is not subject to the RCRA Subtitle C regulations (however, the overall response to the spill is subject to the requirements of Subparts C and D of Part 265 which apply by reference through § 262.34). The storage of the cleaned-up wastes in drums is subject to the accumulation requirements of § 262.34 if storage in the drums is for less than 90-days before off-site shipment or in a on-site. If storage in the drums exceeds 90-days, then this must be covered by a RCRA permit (an existing permit, a new permit, or an emergency permit) or be covered by interim status, and must be carried out in compliance with the applicable requirements of Parts 264 or 265. The incinerator that the drummed wastes shipped to, must have a RCRA permit or interim status.

If, as part of the immediate clean-up action, the containment soil of the diked containment area is treated (e.g., decontamination of the soil in a mobile treatment unit) or the spilled waste is treated, such activity also would not be subject to regulation. However, if such treatment extends beyond the immediate clean-up action, EPA will require an emergency RCRA permit to be obtained. If contaminated soil is left in place, this constitutes disposal and will require a RCRA permit.

3. A spill of hazardous waste material listed in § 261.33(e) occurs in transportation. What must the transporter do?

Under § 263.30(a), the transporter must take appropriate immediate action to protect human health and the environment. The spill containment or treatment action taken in immediate response is exempt from the treatment and storage requirements of Parts 264 and 265 and the transporter is not required to have a RCRA permit or interim status for such action. If he has generated hazardous waste, he must comply with Part 262 when the immediate actions are over. If he transports the spill residue from the spill site, he must comply with the transporter requirements of Part 263 and transport the residue to a facility with a RCRA permit or interim status.

If required by DOT regulations (see 49 CFR 171.15) or other federal regulations (see, e.g., 40 CFR 117.21 and 33 CFR 153.201), the transporter must notify the National Response Center. If an on-scene coordinator or other official arrives, that official may undertake response activities which are exempted by today's amendments from the RCRA

standards and permit requirements for treatment and storage. Under the present regulations, § 263.30(b), these officials may authorize the removal of the waste by transporters without EPA identification numbers and without the preparation of a manifest. The hazardous waste residue must be sent to a hazardous waste management facility with a RCRA permit or interim status. If long-term containment or treatment occurs at the spill site, the site must have a full RCRA permit, interim status, or an emergency permit.

4. A spill occurs on the site of disposal facility which is in interim status. The operator of the facility undertakes immediate containment and clean up. He subsequently disposes of the waste at his facility.

The immediate containment and clean up activities are exempted from the requirements of Part 264 and storage and treatment. The owners and operators of the facility must, however, carry out the provisions of the contingency plan under § 265.51 and follow the emergency procedures § 265.56. The disposal of the hazardous waste is subject to the disposal requirements of Part 265. If the disposal facility is unable to dispose of the spill residue, the owner or operator of the facility, if he has generated a hazardous waste, may accumulate the waste on-site under the provisions of § 262.34, and must comply with all the Part 262 requirements applicable to generators of hazardous waste.

V. Effective Date

Section 3010(b) of RCRA provides that EPA's hazardous waste regulations and revisions thereto take effect six months after their promulgation. The purpose of this requirement is to allow persons handling hazardous wastes sufficient lead time to prepare to comply with major new regulatory requirements. For the amendments promulgated today, however, the Agency believes that an effective date six months after promulgation would cause substantial and unnecessary disruption in the implementation of the regulations and would be contrary to the public interest. The amendments make clear that persons responding to spills are not engaging in treatment and storage activities and that such activities do not have to be done in facilities with a RCRA permit or in interim status. The effect of the amendments will be to relieve these persons of having to comply with a number of impractical requirements with respect to spills response actions. The Agency believes that this is not the type of regulation revision that Congress had in mind

³ EPA recognizes that certain persons, including manufacturers and transporters of hazardous materials, may not have EPA identification numbers prior to a spill which creates hazardous waste. At this time EPA has decided not to exempt discharges from the requirement of having an EPA ID number. Generators do not need an EPA ID number at the time of generation but rather at the time of treating, storing or disposing of the waste or transporting or offering the waste for transportation. Generators will have an opportunity to obtain an EPA ID number after the spill. And, persons who anticipate that they may generate hazardous waste in the future may obtain an EPA ID number in advance. For these reasons, EPA believes that at this time there is no reason to exempt these generators from this requirement.

when it provided a six month delay between the promulgation and the effective date of revisions to regulations. Consequently, the Agency is setting an effective date of November 19, 1980, for these amendments.

VI. Promulgation in Interim Final Form

These amendments operate as a clarification of the hazardous waste regulations published in May of 1980. 45 FR 33066 (May 19, 1980). With certain exceptions, those regulations did not address containment and treatment of spills of hazardous wastes or materials which, when spilled, become hazardous wastes. A literal interpretation of the May regulations, however, would mean that such actions constitute storage and disposal fully subject to regulation. These amendments conform the regulations to their original intent. The Agency believes that good cause exists for promulgation of this rule in final form. See 5 U.S.C. 553(b)(B).

Delaying the application of these rules to allow opportunity for public notice and comment would work substantial hardship on persons handling hazardous waste. The regulatory program goes into effect on November 19, 1980. Spills are everyday occurrences in the real world. Without immediate clarification of the regulations, all persons who might in the future spill a hazardous material or hazardous waste would have to be prepared to be in full compliance with the Part 265 regulations governing treatment and storage. Without these clarifying amendments substantial hardship would be imposed, without appreciable benefit, on the regulated community.

VII. Requests for Comments

The Agency is soliciting comments on all aspects of the amendments and on all issues discussed in this preamble. In addition, the Agency may initiate more comprehensive rulemaking in the near future on RCRA's application to spill responses. The amendments published today will be subject to reconsideration at that time. The public may accordingly be provided additional opportunity to comment on the Agency's regulation of spills.

VIII. Regulatory Impacts

The effect of these amendments is to reduce the overall costs, economic impact and reporting and recordkeeping impacts of EPA's hazardous waste management regulations. The Agency is unable to estimate these reductions.

Dated: November 14, 1980.

Douglas M. Costle,
Administrator.

Title 40 of the code of Federal Regulations is amended as follows:

§ 260.10 [Amended]

1. Add the following definition to § 260.10(a)(64a):

"Spill" means the accidental spilling, leaking, pumping, pouring, emitting, or dumping of hazardous wastes or materials which, when spilled, become hazardous wastes into or on any land or water.

§ 122.3 [Amended]

2. Add the following definition to § 122.3:

"Spill" [RCRA] means the accidental spilling, leaking, pumping, emitting, emptying, or dumping of hazardous wastes or materials which, when spilled, become hazardous wastes into or on any land or water.

§ 264.1 [Amended]

3. Add the following paragraph (g)(8) to § 264.1:

(g) * * *

(8) Persons with respect to those activities which are carried out to immediately contain or treat a spill of hazardous waste or material which, when spilled, becomes a hazardous waste, except that, with respect to such activities, the appropriate requirements of Subpart C and D of this Part are applicable to owners and operators of treatment, storage and disposal facilities otherwise subject to this Part. [Comment: This paragraph only applies to activities taken in immediate response to a spill. After the immediate response activities are completed, the applicable regulations of this Chapter apply fully to the management of any spill residue or debris which is a hazardous waste under Part 261.]

§ 265.1 [Amended]

4. Add the following paragraph (c)(11) to § 265.1:

(c) * * *

(11) Persons with respect to those activities which are carried out to immediately contain or treat a spill of hazardous waste or material which, when spilled, becomes a hazardous waste, except that, with respect to such activities, the appropriate requirements of Subpart C and D of this Part are applicable to owners and operators of treatment, storage and disposal facilities otherwise subject to this Part. [Comment: This paragraph only applies to activities taken in immediate response to a spill. After the immediate

response activities are completed, the regulations of this Chapter apply fully to the management of any spill residue or debris which is a hazardous waste under Part 261.]

§ 122.21 [Amended]

5. Add the following paragraph (d)(3) to § 122.21:

* * * * *

(d) * * *

(3) Further exclusions. A person is not required to obtain a RCRA permit for those activities he carries out to immediately contain or treat a spill of hazardous waste or material which, when spilled, becomes a hazardous waste. [Comments: This exclusion is intended to relieve persons of the necessity of obtaining a RCRA permit where the treatment or storage of hazardous waste is undertaken as part of an immediate response to a spill. Any treatment, storage or disposal of spilled material or spill residue or debris that is undertaken must be covered by a RCRA permit, an emergency RCRA permit or interim status.]

These amendments are issued under the authority of Sections 1006, 2002(a), 3004 and 3005 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6905, 6912(a), 6924 and 6925.

[FR Doc. 80-36132 Filed 11-18-80; 8:45 am]

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40 CFR Part 122

[SWH-FRL 1675-2]

Hazardous Waste Management System: General and EPA Administered Permit Programs: The Hazardous Waste Permit Program

AGENCY: United States Environmental Protection Agency.

ACTION: Interim final rule and request for comments.

SUMMARY: The Environmental Protection Agency ("EPA") is today amending its hazardous waste permit regulations to clarify the circumstances under which hazardous waste management facilities may qualify for interim status. Interim status is the condition under which certain facilities would be treated as having been issued a permit until such time as final administrative action was taken on their permit application. These amendments have been prompted by questions from States and the regulated community concerning the eligibility of various types of facilities for interim status.

This notice also solicits comment on enforcement and regulatory policies which EPA is considering adopting to deal with facilities which miss the notice and application filing deadlines for interim status.

DATES: Effective date: November 19, 1980. Comment Date: Comments on the amendments and policies discussed in this notice are due February 17, 1981.

FOR FURTHER INFORMATION CONTACT: John H. Skinner, Director, State Programs and Resource Recovery Division (WH-564), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, 202/755-9107.

ADDRESSES: Comments should be sent to Docket Clerk, Office of Solid Waste (WH-562), 401 M Street, S.W., Washington, D.C. The comments should refer to "Docket 3005-Interim status".

SUPPLEMENTARY INFORMATION:

I. Introduction

Subtitle C of the Resource Conservation and Recovery Act of 1976, as amended ("RCRA"), 42 U.S.C. §§ 6921-6933, requires EPA to establish a comprehensive Federal regulatory program to assure the proper management of hazardous waste. One of the most important features of this program is the requirement that facilities¹ which treat, store or dispose of hazardous waste obtain a permit from EPA (or a State authorized by EPA to conduct a hazardous waste program) and that hazardous wastes only be designated for, delivered to and treated, stored or disposed of in these permitted facilities (Sections 3002, 3003, 3004 and 3005). Indeed, after the effective date of EPA's regulations identifying hazardous wastes, it is a felony to transport those wastes to an unpermitted facility or to treat, store or dispose of them at an unpermitted facility (Sections 3008(d)(1) and (2)).

Recognizing that EPA and authorized States would not be able to issue permits to all hazardous waste management facilities before the Subtitle C program became effective, Congress provided in Section 3005(e) of RCRA that certain facilities would be treated as having been issued a permit until such time as final administrative action was taken on their permit application. This statutory permit—commonly referred to as "interim status", the title of Section 3005(e)—is

conditioned on a facility's meeting the following three requirements:

1. The facility must have been in existence on November 19, 1980.²

2. The facility must have "complied with the requirements of section 3010(a)" of RCRA (notification of hazardous waste activity).

3. The facility must have filed an application for a permit under Section 3005.

On May 19, 1980, EPA published regulations defining when a hazardous waste management facility may qualify for interim status. See 40 CFR §§ 122.22(a) and 122.23(a), 45 FR 33433-33434 (May 19, 1980). Those regulations provide that interim status may only be obtained by an existing facility (defined in § 122.3) which has "[n]otified the Administrator within 90 days from the promulgation or revision of Part 261 as required by Section 3010 of RCRA" (§ 122.23(a)(1)) and submitted an application within "six months after the first promulgation of regulations in 40 CFR Part 261 listing and identifying hazardous wastes"—i.e., November 19, 1980 (§ 122.22(a)).

EPA has received numerous questions about these provisions since their publication. Most have focused on two major issues: whether facilities can qualify for interim status after November 19, 1980, and whether facilities which missed statutory or regulatory filing deadlines can qualify for interim status. We have examined these issues carefully and have concluded that §§ 122.22(a) and 122.23 need to be amended to better define the universe of hazardous waste management facilities which are eligible for interim status under Section 3005(e). We have also decided that the Agency needs to establish enforcement and regulatory policies to deal with facilities which have failed to meet applicable deadlines for filing notifications and permit applications. These amendments and policies are discussed below in the context of the three statutory prerequisites for interim status.

II. Requirement That Facilities "Comply With the Requirements of Section 3010(a)"

Section 3005(e)(2) of RCRA conditions interim status on a facility's having "complied with the requirements of Section 3010(a)." Section 3010(a) in turn requires that:

Not later than ninety days after promulgation of regulations under section 3001 identifying * * * or listing any substance as a hazardous waste . . . any person generating or transporting such substance or owning or operating a facility for the treatment, storage or disposal of such substance shall file with the Administrator (or with States having authorized hazardous waste permit programs * * *) a notification stating the location and general description of the activity and the identified or listed hazardous wastes handled by such person.

Three major questions have been raised concerning the interrelationship between Sections 3005(e)(2) and 3010(a).

A. Requirement to notify.

A number of facilities have pointed out to EPA that they were not required to notify under Section 3010(a). They have asked whether a facility which is not required to notify under Section 3010(a) (and therefore did not submit a timely notification) would be eligible for interim status.

These facilities are correct in their observation that Section 3010(a) does not require all hazardous waste management facilities to notify. The notification requirements of Section 3010 are triggered only by the publication of regulations under Section 3001 "identify by its characteristics or listing any substance as hazardous waste subject to . . . subtitle [C]" and apply only to persons who are handling those substances at the time the regulations are published. See also 45 FR 12747-12748 (February 26, 1980). Moreover, EPA has, by regulation, exempted several classes of facilities which would otherwise be required to notify under Section 3010 from having to comply with any notification requirements (e.g., on-site storage facilities operated by small quantity generators (see § 261.5) and recycling facilities (see § 261.6)).

If a facility is not required to file a Section 3010 notification, it is EPA's opinion that it has "complied with the requirements of Section 3010(a)" and has met that prerequisite for interim status. A contrary construction of Section 3005(e)(2)—which would have eligibility for interim status turn on whether a facility had filed a notification, irrespective of whether it was required to—would condition interim status on a facility's meeting a requirement which was not dictated by either statute or regulation. Indeed, in some cases—e.g., where a facility did not begin handling hazardous waste until after the ninety-day notification deadline—it would condition interim status on a facility's meeting a requirement with which it could not, as a practical matter, comply.

EPA's May 19, 1980, regulations defining when a facility may obtain

¹ Throughout this notice, EPA will use the term "facility" to refer to the owner and operator of a hazardous waste management facility as well as the facility itself. Thus where, for example, the notice speaks of a "facility" being issued a permit, that term should be understood to mean the owner and operator of the facility.

² When RCRA was originally enacted, Section 3005(e) provided that a facility had to be in existence as of "the date of enactment of this Act"—i.e., October 21, 1976. Recent amendments to RCRA have changed this date to November 19, 1980. See Section 10 of the Solid Waste Disposal Act Amendments of 1980, P.L. 96-482 (October 21, 1980).

interim status did not reflect the distinction between filing a notification and being required to file a notification under Section 3010. To correct this error, EPA is today amending § 122.23(a)(1) to make it clear that a facility which is not required to notify under Section 3010 may obtain interim status without filing a notification if it meets the remaining two prerequisites set forth in Section 3005(e).³

B. Ninety day filing deadline.

A number of facilities which were required to file a notification as a result of the publication of EPA's May 19, 1980, regulations have advised the Agency that they did not file a notification within ninety days. These facilities have asked whether they will be eligible for interim status if they file a late notification.

As noted above, Section 3010(a) requires facilities handling wastes listed in EPA's May 19, 1980, regulations not only to file a notification, but to file the notification within ninety days (i.e., by August 18, 1980). It is EPA's opinion that a facility which was required to notify as a result of the publication of EPA's May 19, 1980, regulations and did not file a notification by August 18, 1980, has not "complied with the requirements of section 3010(a)" and is not eligible for interim status. A contrary interpretation of Section 3010(a) would essentially read the ninety-day deadline out of the statute.

EPA recognizes that this literal construction may have the effect of preventing some well-managed facilities from ever qualifying for interim status. We have developed two policies to provide relief in these situations. The first deals with facilities whose failure to notify is attributable to ambiguities in EPA's regulations; the second with facilities whose failure to notify is their own fault. In our opinion, these policies will preserve the integrity of the ninety-day deadline in Section 3010 while at the same time providing the administrative flexibility necessary to deal with late filings on a case-by-case basis.

1. Revised notification requirements.

Since the publication of EPA's May 19, 1980, regulations, members of the regulated community, States and environmental groups have brought to EPA's attention a number of provisions in the regulations which were not clear, or, as applied to specific waste management situations, did not make sense. In an August 19, 1980, **Federal**

Register notice (45 FR 55386), EPA identified approximately twenty of these provisions, and promised to issue regulatory amendments or regulatory interpretation memoranda (RIMs) to correct, modify or clarify them.

Some of these provisions deal with the issue of whether a person was handling a hazardous waste on May 19, 1980, and therefore was required to notify EPA under Section 3010 by August 18, 1980. In most cases, the regulatory amendments and RIMs which are now being developed by EPA will have the effect of narrowing the universe of persons who were required to notify on August 18, 1980 (based on a literal reading of the regulations). In a few cases, however, they may bring within Subtitle C control owners and operators of facilities who could reasonably have concluded, based on a careful reading of the May 19, 1980, regulations, that they were not required to notify on August 18, 1980.

We do not think it is fair to penalize facilities for failing to notify under Section 3010 where that failure is attributable to major ambiguities in EPA's hazardous waste regulations. Although we do not believe we have the authority to waive the ninety-day statutory filing deadline for facilities which were required to notify on August 18, 1980, we do think we have the authority under RCRA to issue a *post hoc* administrative finding that a particular class of facilities was not required to notify at all because of major uncertainties in EPA's regulations. It is our intent, therefore, at the time EPA publishes future **Federal Register** notices announcing amendments to or interpretations of our hazardous waste regulations, (1) to decide whether some class of facilities may have failed to notify because of ambiguities in those regulations and if so, (2) to issue a determination that that class of facilities was not required to notify under Section 3010 on August 18, 1980, and to establish new deadlines for submitting permit applications and complying with interim status standards under 40 CFR Part 265.⁴ The effect of this determination will be to make the designated facilities eligible for interim status even though they failed to notify on August 18, 1980.

b. Enforcement discretion.

In addition to facilities which failed to file a timely notification because of major ambiguities in EPA's regulations, there are no doubt a number of facilities which failed to notify as a result of

clerical errors, oversight or other factors. Some may be well-managed facilities whose continued operation is in the public interest.

Although EPA cannot grant interim status to facilities which failed to file a timely Section 3010 notification, we are prepared to exercise our enforcement discretion to allow such facilities to continue operating after November 19, where their continued operation would be in the public interest. To provide formal assurances to these facilities that they will not be prosecuted for operating without a permit, EPA is considering issuing Interim Status Compliance Letters ("ISCLs") to qualifying facilities stating that the Government will not prosecute them for operating without a permit if they file a permit application and comply with all applicable Part 265 standards. The ISCL would contain similar provisions shielding generators and transporters using these facilities from Federal prosecution for sending wastes to an unpermitted facility. Compliance orders issued under Section 3008 of RCRA (with or without a civil penalty assessment) could also be used to achieve essentially the same result.

Although a facility operating under an ISCL or compliance order and complying with EPA's Part 265 regulations would not be immune from citizen suits under Section 7002 of RCRA because it was technically operating without a permit, we doubt that such suits would ever be successful. Federal courts sitting in equity are not likely to close down facilities which have failed to submit a timely notification under Section 3010 if they are otherwise fully complying with all applicable substantive environmental standards.

An ISCL or compliance order would also assist facilities which must file under Section 13 of the Securities and Exchange Act of 1934, as amended, in making a full disclosure of the extent of their potential liability under RCRA. As noted above, for a facility which is complying with its ISCL or compliance order, potential liability under Section 3008 or 7002 should be negligible.

EPA expressly solicits comment on these approaches. A similar enforcement policy was successfully used by EPA under the Clean Water Act ("CWA") to deal with an inflexible statutory deadline much like the ninety-day deadline in Section 3010.⁵ The main

³ Facilities which have not submitted a notification under Section 3010(a) would, of course, still be required to file for an EPA identification number. See 40 CFR § 265.11, 45 FR 33234 (May 19, 1980).

⁴ If an amendment deals with the issue whether a material is a hazardous waste, EPA may at the same time trigger a new opportunity for notification under Section 3010.

⁵ Section 301(b) of the Clean Water Act, 33 U.S.C. § 1331(b), requires all point source dischargers to meet effluent limitations based on the best practicable control technology by July 1, 1977. When it became apparent that some dischargers would not be able to meet July 1, 1977 deadline, EPA began issuing letters and orders to these facilities stating

Footnotes continued on next page

difference between the CWA policy and the policy announced above is that under the latter EPA would generally not extend deadlines for complying with applicable regulatory requirements. In this respect, we think it is an even more judicious and environmentally sound exercise of EPA's enforcement discretion.

3. A Caveat.

Facilities should not construe the announcement of the foregoing policies (or the amendments discussed in Section III, below) as an invitation to miss applicable statutory or regulatory filing deadlines. These policies are designed to address situations where facilities have acted reasonably and in good faith or where well-operated facilities have through clerical error or oversight failed to submit a timely notification date. They are not intended for facilities which have made little or no effort to comply with EPA's regulations.

C. 1980 Amendments to Section 3010(a).

The Solid Waste Disposal Act Amendments of 1980, P.L. 96-482 (October 21, 1980), amend Section 3010(a) of RCRA to make notifications triggered by amendments to EPA's Section 3001 regulations after October 21, 1980, discretionary with the Administrator. EPA has been asked what effect these amendments will have on facilities' eligibility for interim status.

We see two important consequences for interim status flowing from the enactment of these amendments. First, facilities which handle wastes listed or identified as hazardous wastes by EPA after October 21, 1980, are no longer automatically required to notify under Section 3010. Only if EPA expressly requires facilities to notify will notification under Section 3010(a) be required.

Second, there is no longer any statutory deadline for filing notifications. In the future, all notification deadlines will be set by regulation. This will give EPA the same administrative flexibility to deal with late notifications that it currently has with respect to late permit applications. See Section III, below.

III. Requirement that a Facility Have "Filed an Application Under this Section"

A second statutory prerequisite of interim status is that the owner and operator of a facility have "filed an

application under * * * section [3005]". Section 3005(e)(3) EPA's regulations implementing Section 3005 condition eligibility for interim status on a facility's having "complied with the requirements of § 122.22(a) * * * governing submissions of Part A applications." See § 122.23(a)(2). Section 122.22(a)(2) in turn requires that a Part A application be submitted by November 19, 1980.

EPA has been asked whether, in light of these requirements, an existing hazardous waste management facility which is not now subject to EPA's hazardous waste regulations will be able to obtain interim status by filing an application after November 19, 1980, if EPA amends its regulations to bring them into the hazardous waste management system. The answer to this question is yes, if the owner and operator of the facility file a permit application within six months of the amendment to EPA's regulations which first subjects the facility to the requirements of Part 265 or 266. EPA is today amending § 122.23(a) to clarify this point. As noted in the "comment" to this amendment, EPA will make every effort to identify permit filing deadlines in the *Federal Register* publications announcing amendments to its regulations to avoid future confusion about when Part A permit applications must be submitted. See, e.g., 45 FR 47832 (July 16, 1980), 45 FR 74884-74885 (November 12, 1980).

EPA is also adding a paragraph to § 122.22(a) to make it clear that a facility which submits a permit application by a revised filing deadline announced by EPA in a *Federal Register* notice clarifying its regulations (see discussion in Section II.B.1, above) has met the prerequisites of Section 3005(e)(3) and is eligible for interim status.

Some existing hazardous waste management facilities may need to qualify for interim status in the future, not as a result of EPA regulatory action, but because of changes in their own operations. For example, a small quantity generator may start generating over 1,000 kg of hazardous waste a month and need to obtain interim status for an existing on-site treatment, storage or disposal facility. Or a facility which properly determined on August 1, 1980, that the solid waste it was treating did not exhibit any of the characteristics of hazardous waste may retest it after November 19, 1980, and find that it exhibits the characteristic of extraction procedure toxicity. We have been asked whether the facilities will be able to qualify for interim status if they do not

submit a permit application by November 19, 1980.

EPA believes these facilities should be eligible for interim status if they promptly file a permit application. Accordingly, we are today amending § 122.22(a) to allow these facilities to qualify for interim status if they file a permit application within 30 days after they lose their regulatory exemption or begin handling hazardous waste.

Readers should note that these facilities will technically be operating without a permit until they submit their permit application. EPA will not initiate any enforcement action against them, however, if they contact their EPA Regional Office immediately and file an application within the thirty-day period.

EPA believes these amendments will cover most situations where facilities which are eligible for interim status under Sections 3005(e) (1) and (2) must file a permit application. In the event they do not, and in the event some facilities inadvertently miss the filing deadlines set forth in § 122.23(a), EPA is adding another new provision to that section which allows a facility to obtain interim status if it files a permit application by the deadline set forth in a compliance order issued by EPA under Section 3008.

IV. Requirement that a Facility Be "in Existence on November 19, 1980"

The final statutory prerequisite for obtaining interim status is that a facility have been "in existence on November 19, 1980". EPA regulations define "existing facility" as a "facility in operation," (i.e., a facility "receiving hazardous waste for treatment, storage or disposal") or "facility for which construction has commenced." 40 CFR § 122.3 (definitions of "existing HWM facility" and "in operation"). EPA has been asked if a facility which was handling a solid waste on November 19, 1980, that was not identified or listed as a hazardous waste in EPA's Part 261 regulations prior to November 19, 1980, but was identified or listed in a subsequent amendment to those regulations could qualify as an existing hazardous waste management facility for purposes of obtaining interim status.

In EPA's opinion, if a facility was receiving for treatment, storage or disposal on or before November 19, 1980, a solid waste which is subsequently listed or identified as a hazardous waste by EPA, the facility was "in existence on November 19, 1980" and is eligible for interim status if it files a timely permit application and Section 3010 notification (if required). Limiting eligibility for interim status only to those facilities which were

Footnotes continued from last page that the Agency would not prosecute them for failing to meet the July 1, 1977, date if they met an alternative deadline and accompanying compliance schedule set forth in the letter or order.

handling a solid waste on November 19, 1980, that had been listed or identified as a hazardous waste prior to that date, would attach too much regulatory significance to the order in which EPA promulgates its hazardous waste listings. It would also prevent any facility which was handling a solid waste now temporarily exempted from Subtitle C controls as a "special waste" from ever obtaining interim status.⁶

Readers should note, however, that for a facility to qualify as an "existing facility" in this situation, the solid waste which the facility was handling on or before November 19, 1980, must be the same waste which is later identified or listed in EPA's hazardous waste regulations. A facility which is handling trash on November 19, 1980, for example, would not qualify as an existing facility simply because after November 19, 1980, it began handling a solid waste which was subsequently listed as a hazardous waste in EPA's Part 261 regulations.

EPA recognizes that it may be difficult for some facilities to establish a precise correlation between solid wastes handled prior to and after November 19, 1980, because of changes in manufacturing processes, wastewater treatment processes, air emission controls, raw materials or other similar components of the manufacturing and waste treatment process. The Agency solicits comment on what types of guidelines it should follow in these situations to determine if the wastes being handled prior to and after November 19, 1980, are the "same waste."

V. Practical application

To assist readers in understanding the amendments and policies which have been outlined above, EPA believes it would be useful to discuss how they would apply in concrete factual situations.

1. The ABC Company completed construction of a hazardous waste incinerator on October 1, 1980. On October 2, 1980, the facility begins incinerating a number of hazardous wastes listed in EPA's May 19, 1980 regulations. The facility submitted a permit application on November 1, 1980, but did not notify on August 18, 1980. Does the facility have interim status?

Yes. The facility was not required to file a Section 3010 notification because it was not handling hazardous waste at the time of promulgation of EPA's May 19, 1980, regulations. Thus, although it has not notified, it has nevertheless

"complied with section 3010(a)" within the meaning of Section 3005(e).

The facility also meets the other two prerequisites for interim status.

2. The ABC Company owns a landfill which, since 1978, has been used continuously and exclusively for the disposal of sludges from the treatment of wastewater from widgeit production. On January 1, 1982, EPA adds wastewater treatment sludge from the production of widgeits to its hazardous waste list. The preamble to the **Federal Register** publication announcing the new listing does not expressly require facilities handling wastewater treatment sludges from widgeit production to notify. It does state, however, that such facilities must file a permit application and begin complying with all applicable interim status standards by July 1, 1982. The ABC Company files a complete permit application by July 1, 1982. Does it have interim status?

Yes. Section 3010(a) of RCRA was amended by the Solid Waste Disposal Act Amendments of 1980 on October 21, 1980, to make Section 3010(a) notifications based on revisions to EPA's hazardous waste list and characteristics discretionary with the Agency. Thus, in the absence of an explicit EPA directive to notify, a company handling a hazardous waste listed in a revision to EPA's Part 261 regulations which was published after October 21, 1980, would not be required to submit a new Section 3010 notification.

The ABC Company landfill also meets the two remaining prerequisites for interim status. Because it was handling a solid waste on November 19, 1980, which was subsequently listed as a hazardous waste by EPA, it was a hazardous waste management facility which was "in existence on November 19, 1980." It also filed a timely permit application.

3. The ABC Company owns an on-site landfill which was handling garbage on November 19, 1980. On January 1, 1981, the company goes into the widgeit production business and begins using the landfill to dispose of sludges from the treatment of wastewater generated by the widgeit production process. On January 1, 1982, EPA lists wastewater treatment sludges from the production of widgeits as a hazardous waste. The preamble to the **Federal Register** publication announcing the new listing requires facilities handling widgeit wastewater treatment sludges to notify by March 30, 1982, and submit a permit application by July 1, 1982. The ABC Company files a timely notification and permit application. Does its landfill have interim status?

No. On November 19, 1980, the landfill was not handling a hazardous waste (as defined by EPA in its May 19, or July 16, 1980, regulations) or a solid waste which was subsequently identified or listed as a hazardous waste by EPA. It was therefore not "in existence" as a hazardous waste management facility on November 19, 1980, and cannot qualify for interim status.

4. The ABC Company generates 500 kg per month of a waste listed in EPA's May 19, 1980, regulations. Since 1975, the company has disposed of this waste in an unlicensed on-site landfill. Starting on November 19, 1980, the company starts sending its waste to a state approved industrial landfill in order to take advantage of EPA's small quantity generator regulations. Later, EPA lowers the small quantity generator exemption to 100 kg per month. The ABC Company cannot find a nearby hazardous waste management facility to take its waste and would like to reactivate its on-site landfill. Is the landfill eligible for interim status?

Yes. The landfill can meet all three prerequisites for interim status if it submits complete permit application within six months after EPA amends Part 261 to lower the small quantity generator exemption.

5. The ABC Company treats a waste which it believes is exempted as hazardous waste under § 261.4 of EPA's May 19, 1980, regulations. It does not notify on August 18, 1980, or submit a permit application by November 19, 1980. On March 1, 1981, EPA issues an interpretation of § 261.4 which makes it clear that the waste treated by the company is not exempt. The company tests the waste against the characteristics of hazardous waste identified in Subpart C of Part 261 and the waste exhibits several of the characteristics. Can the company's treatment facility qualify for interim status?

This will depend on the content of the **Federal Register** notice announcing EPA's regulatory interpretation. If the Agency decides that the exemption in § 261.4 was so vague or ambiguous that facilities in the position of the ABC Company could not reasonably have been expected to know that they were required to notify and submit a permit application, it will (1) include as part of its interpretation a formal Agency determination that those facilities were not required to notify and (2) set a new deadline by which those facilities must submit a complete permit application if they wish to qualify for interim status. Thus, if the ABC Company submits a complete application by the new

⁶The same reasoning applies to facilities which commenced construction by November 19, 1980.

deadline, its treatment facility will have qualified for interim status.

On the other hand, if EPA decides that the regulation was not vague or ambiguous or that Agency's resolution of ambiguities in the regulation does not affect facilities in the position of the ABC Company, it will not modify existing filing and compliance dates for those facilities. In this situation, the treatment facility cannot qualify for interim status because it has not submitted a timely notification and permit application.

VI. Miscellaneous Issues

A. Protective filings.

We have been advised that a number of facilities which are not now subject to EPA's hazardous waste regulations have filed "protective" notifications and permit applications to comply with EPA's May 19, 1980, Part 122 regulations and thus assure that they will be able to obtain interim status in the future (if necessary). Many of these filings may not be necessary under today's revised regulations.

We urge facilities which have filed unnecessary notifications or permit applications to advise the EPA Regional Office. This will help assure that our list of existing hazardous waste management facilities is accurate for enforcement and other purposes.

B. Units within existing facilities.

Section 122.3 of EPA's May 19, 1980, regulations defines the term "hazardous waste management facility" to include sites consisting of several operational units which handle hazardous waste. A facility, for example, may consist of two hazardous waste storage facilities, a hazardous waste landfill and a hazardous waste incinerator.

Section 122.23(c) restricts the modifications which may be made during interim status to the design capacity of an existing facility and to the processes used by the facility to treat, store or dispose of hazardous waste. EPA has been asked whether, when an individual unit in an interim status facility later qualifies for interim status, that constitutes a "change" in existing design capacity or processes and, if so, whether that change would be subject to the restrictions set forth in § 122.23(c).

The restrictions on modifications in § 122.23(c) are intended to prevent interim status facilities from making major changes in their existing operations which either would be tantamount to the construction of a new facility or should ideally be made after an individual permit is issued. See 45 FR

33324 (May 19, 1980). They are not intended to restrict the number of individual units within those facilities which can qualify for interim status. Thus, EPA would not consider the fact that an individual unit within a facility has independently qualified for interim status (or is operating under an ISCL or compliance order, as discussed above) to be a "change" to the facility subject to the restrictions of § 122.23(c). The individual unit would, of course, be subject to those restrictions if the facility sought to enlarge the design capacity of the unit or modify the processes used by the unit to handle hazardous waste.

VII. Interim Final Regulations and Effective Date

A. Interim final regulations.

EPA has determined under Section 553 of the Administrative Procedure Act, 5 U.S.C. § 553, that there is good cause for promulgating these amendments without prior notice and comment. As discussed above, EPA's regulations defining when a facility can obtain interim status have erroneously led many facilities to believe that unless they file a permit application by November 19, 1980, they will never be able to obtain interim status. We think it is essential to correct this error before November 19, 1980, or else a significant number of facilities will be filing unnecessary permit applications on November 19, 1980. Readers will have ample opportunity (ninety days) to comment on these amendments before they are issued in "final final" form.

B. Effective date.

Section 3010(b) of RCRA requires that revisions to "regulations * * * respecting * * * requirements [for] permits * * * shall take effect on the date six months after the date of * * * revision." We do not think a literal application of this requirement would make sense in this case. The purpose of Section 3010(b) is to allow persons handling hazardous waste sufficient lead time to prepare to comply with major new regulatory requirements. Delaying the effective date of amendments which reduce existing regulatory requirements is not necessary to carry out this objective. Furthermore, for the reasons stated above, EPA believes an effective date of six months after promulgation would be counterproductive since much of the unnecessary regulatory burden which these amendments seek to avert will already have been imposed. We are therefore making these amendments effective on November 19, 1980, the

effective date of the remainder of EPA's May 19, 1980, hazardous waste regulations.

Dated: November 14, 1980.

Douglas M. Costle,
Administrator.

Title 40 of the Code of Federal Regulations is amended as follows:

1. Section 122.22 is amended by redesignating paragraphs (a)(2) and (a)(3) as paragraphs (a)(4) and (a)(5) respectively, and revising paragraph (a)(1) and adding new paragraphs (a)(2) and (a)(3) to read as follows:

§ 122.22 Application for a permit.

(a) *Existing HWM facilities.* (1) Owners and operators of existing hazardous waste management facilities must submit Part A of their permit application to the Regional Administrator no later than (i) six months after the date of publication of regulations which first require them to comply with the standards set forth in 40 CFR Parts 265 or 266, or (ii) thirty days after the date they first become subject to the standards set forth in 40 CFR Parts 265 or 266, whichever first occurs. [Comment: For facilities which must comply with Part 265 because they handle a waste listed in EPA's May 19, 1980, Part 261 regulations (45 FR 33006 et seq.), the deadline for submitting an application is November 19, 1980. Where other existing facilities must begin complying with Parts 265 or 266 at a later date because of revisions to Parts 260, 261, 265, or 266, the Administrator will specify in the preamble to those revisions when those facilities must submit a permit application.]

(2) The Administrator may by publication in the **Federal Register** extend the date by which owners and operators of specified classes of existing hazardous waste management facilities must submit Part A of their permit application if he finds that (i) there has been substantial confusion as to whether the owners and operators of such facilities were required to file a permit application and (ii) such confusion is attributable to ambiguities in EPA's Parts 260, 261, 265, or 266 regulations.

(3) The Administrator may by compliance order issued under Section 3008 of RCRA extend the date by which the owner and operator of an existing hazardous waste management facility must submit Part A of their permit application.

2. Section 122.23 is amended by revising paragraph (a)(1) to read as follows:

§ 122.23 Interim status.

(a) * * *

(1) Complied with the requirements of Section 3010(a) of RCRA pertaining to notification of hazardous waste activity. [Comment: Some existing facilities may not be required to file a notification under Section 3010(a) of RCRA. These facilities may qualify for interim status by meeting paragraph (a)(2) of this Section.]

* * *

These amendments are issued under the authority of Sections 1006, 2002(a) and 3005 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6905, 6912(a) and 6925.

[FR Doc. 80-36133 Filed 11-18-80; 8:45 am]

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Part IV

Department of Agriculture

Agricultural Marketing Service

Wheat and Wheat Foods Research and Nutrition Education; Rules of Practice Governing Proceedings on Petitions To Modify or Be Exempted From the Order

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1280

[Docket No. WR-1]

Wheat and Wheat Foods Research and Nutrition Education; Rules of Practice Governing Proceedings on Petitions To Modify or To Be Exempted From the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Agriculture Marketing Service issues regulations which establish rules of practice governing proceedings on petitions to modify or to be exempted from provisions of the Wheat and Wheat Foods Research and Nutrition Education Order which was issued May 12, 1980, and published May 16, 1980, at 45 FR 32572. The regulations herein issued are authorized by section 1716 of the Wheat and Wheat Foods Research and Nutrition Education Act (7 U.S.C. 3415).

EFFECTIVE DATE: November 19, 1980.

FOR FURTHER INFORMATION CONTACT:

W. David Spalding, Livestock, Poultry, Grain, and Seed Division, AMS, USDA, Washington, D.C. 20250, Phone: (202) 447-2068.

SUPPLEMENTARY INFORMATION: The Wheat and Wheat Foods Research and Nutrition Education Act provides in section 1716 (7 U.S.C. 3415) that the Secretary of Agriculture is authorized to issue such regulations as may be necessary to carry out the provisions of the act. The regulations herein issued establish rules of practice governing proceedings on petitions to modify or to be exempted from provisions of the Wheat and Wheat Foods Research and Nutrition Education Order which was issued May 12, 1980, and published in the *Federal Register* May 16, 1980, at 45 FR 32572. The statutory authority for such proceedings on petitions filed is found at section 1710(a) of the Act (7 U.S.C. 3409).

It has been determined that under the administrative procedure provisions in 5 U.S.C. 553, it is impractical and unnecessary to allow opportunity for public comment or to delay the effectiveness of these rules of practice until 30 days after publication in the *Federal Register* for the reasons that: (1) No substantive rule or change of rule is involved, and (2) These procedures are patterned directly after existing

procedures which have been effectively used in similar programs.

Accordingly, Part 1280 of Chapter XI of Title 7 of the Code of Federal Regulations is amended by adding a new Subpart as follows:

Subpart—Rules of Practice Governing Proceedings on Petitions To Modify or To Be Exempted From the Order.

Sec.

1280.250 Words in the singular form.

1280.251 Definitions.

1280.252 Institution of proceeding.

Authority: Wheat and Wheat Foods Research and Nutrition Education Act, Pub. L. 95-113, 95th Cong., approved September 29, 1977, 7 U.S.C. 3401-3417.

§ 1280.250 Words in the singular form.

Words in this subpart in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

§ 1280.251 Definitions.

As used in this subpart, the terms as defined in the Act shall apply with equal force and effect. In addition, unless the context otherwise requires:

(a) The term "Act" means the Wheat and Wheat Foods Research and Nutrition Education Act and as it may be amended (Pub. L. 95-113, 7 U.S.C. 3401 et. seq.);

(b) The term "Department" means the U.S. Department of Agriculture;

(c) The term "Secretary" means the Secretary of Agriculture or any other officer or employee of the Department of Agriculture to whom there has heretofore been delegated, or to whom they may hereinafter be delegated the authority to act in the Secretary's stead;

(d) The term "Administrative Law Judge" or "Judge" means any Administrative Law Judge appointed pursuant to 5 U.S.C. 3105 and assigned to conduct the hearing;

(e) The term "Administrator" means the Administrator of the Agricultural Marketing Service, with power to redelegate, or any other officer or employee of the Department to whom authority has been delegated or may hereafter be delegated to act in the Administrator's stead;

(f) The term *Federal Register* means the publication provided for by the act of July 26, 1935 (49 Stat. 500), and act supplementary thereto and amendatory thereof;

(g) The term "order" means any order or any amendment thereto which may be issued pursuant to the Act;

(h) The term "person" means any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity, subject

to an order or to whom an order is sought to be made applicable, or on whom an obligation has been imposed or is sought to be imposed under an order;

(i) the term "proceeding" means a proceeding before the Secretary arising under section 1710(a) of the Act;

(j) The term "hearing" means that part of the proceeding which involves the submission of evidence.

(k) The term "party" includes the Department;

(l) The term "Hearing Clerk" means the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C.;

(m) The term "Administrative Law Judge's report" means the Administrative Law Judge's report to the Secretary and includes the Administrative Law Judge's proposed (1) findings of fact and conclusions with respect to all material issues of fact, law, or discretion, as well as the reasons or basis therefor, (2) order, and (3) rulings on findings, conclusions, and orders submitted by the parties; and

(n) The term "petition" includes an amended petition.

§ 1280.252 Institution of proceeding.

(a) *Filing and service of petition.* Any person subject to an order desiring to complain that any order or any provision of any such order or any obligation imposed in connection therewith is not in accordance with the law, shall file with the Hearing Clerk, in quadruplicate, a petition in writing addressed to the Secretary. Promptly upon receipt of the petition, the Hearing Clerk shall transmit a true copy thereof to the Administrator and the General Counsel, respectively;

(b) *Contents of petition.* A petition shall contain:

(1) The correct name, address, and principal place of business of the petitioner. If petitioner is a corporation, such fact shall be stated, together with the name of the State of incorporation, the date of incorporation, and the names, addresses, and respective positions held by its officers and directors; if an unincorporated association, the names and addresses of its officers, and the respective positions held by them; if a partnership, the name and address of each partner;

(2) Reference to the specific terms and provisions of the order, or the interpretation or application thereof, which are complained of;

(3) A full statement of the facts (avoiding a mere repetition of detailed evidence) upon which the petition is based, and which it is desired that the Secretary consider, setting forth clearly and concisely the nature of the

petitioner's business and the manner in which petitioner claims to be affected by the terms or provisions of the order or the interpretation or application thereof, which are complained of;

(4) A statement of the grounds on which the terms or provisions of the order, or the interpretation or application thereof, which are complained of, are challenged as not in accordance with law;

(5) Prayers for the specific relief which the petitioner desires the Secretary to grant; and

(6) An affidavit by the petitioner, or if the petitioner is not an individual, by an officer of the petitioner having knowledge of the facts stated in the petition, verifying the petition.

(c) Application to dismiss petition.

(1) If the Administrator is of the opinion that the petition, or any portion thereof, does not substantially comply, in form or content, with the Act or with the requirements of (b) of this section, the Administrator may, within 30 calendar days after the filing of the petition file with the Hearing Clerk an application to dismiss the petition, or any portion thereof, on one or more of the grounds stated in this section. Such application shall specify the grounds of objection to the petition and if based, in whole or in part, on allegations of fact not appearing on the face of the petition, shall be accompanied by appropriate affidavits or documentary evidence substantiating such allegations of fact. The application may be accompanied by a memorandum of law. Upon receipt of such application, the Hearing Clerk shall cause a copy thereof to be served upon the petitioner, together with a notice stating that all papers to be submitted in opposition to such application, including any memorandum of law, must be filed by the petitioner with the Hearing Clerk not later than 20 calendar days after the service of such notice upon the petitioner. Upon the expiration of the time specified in such notice, or upon receipt of such papers from the petitioner, the Hearing Clerk shall transmit all papers which have been filed in connection with the application to the Judge for consideration.

(2) *Decision by Administrative Law Judge.* The Judge, after due consideration shall render a decision upon the motion stating the reasons for the action. Such decision shall be in the form of an order and shall be filed with the Hearing Clerk who shall cause a copy thereof to be served upon the petitioner and a copy thereof to be transmitted to the Administrator. Any such order shall be final unless appealed pursuant to § 900.65, incorporated by (d) of this section:

Provided, That within 20 calendar days following the service upon the petitioner of a copy of the order of the Judge dismissing the petition, or any portion thereof, on the ground that it does not substantially comply in form and content with the Act or with (b) of this section, the petitioner shall be permitted to file an amended petition.

(3) *Oral argument.* Unless a written application for oral argument is filed by a party with the Hearing Clerk not later than the time fixed for filing papers in opposition to the motion, it shall be considered that the party does not desire oral argument. The granting of a request to make oral argument shall rest in the discretion of the Judge.

(d) *Further proceedings.* Further proceedings on petitions to modify or to be exempted from the orders shall be governed by § 900.52a through § 900.71 excluding § 900.70 of the title "Rules of Practice Governing Proceedings on Petitions to Modify or to be Exempted from Marketing Orders" revised October 29, 1973, and any amendments thereto, except that all references to marketing orders shall mean the Order under the Act, and as may hereafter be amended, and the same are incorporated herein and made a part hereof by reference.

Done at Washington, D.C., on November 14, 1980.

Jerry Hill,

Deputy Assistant Secretary for Marketing Services

[FR Doc. 80-36103 Filed 11-18-80; 6:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

2 CFR Part 2200

(Revised 10-1-87)

Wheat and Wheat Family Products and Products of Wheat, Triticum, and Triticale: Generalizing Proceedings on Rules for the Quality of To Be Exemplified from the Order

AGRICULTURAL MARKETING SERVICE, USDA

Section 2200.100

Summary: The Agricultural Marketing Service issues regulations which establish rules of practice governing proceedings on petitions to amend, to be the exemplified from provisions of the Wheat and Wheat Family Products and Products of Wheat, Triticum, and Triticale Generalizing Order, which was issued May 12, 1988, and published May 18, 1988, at 53 FR 2200. The regulations which issued are authorized by section 2200 of the Wheat and Wheat Family Products and Products of Wheat, Triticum, and Triticale Act of 1987, 5 U.S.C. 2200.

Comments: Written comments, data, and statistical information concerning the Order should be submitted to: Policy, Planning, and Legal Division, AMS, USDA, Washington, D.C. 20250. Phone: (202) 647-2000.

Comments: Comments on the Wheat and Wheat Family Products and Products of Wheat, Triticum, and Triticale Act of 1987, 5 U.S.C. 2200, should be submitted to the Secretary of Agriculture. It is requested that comments be submitted by May 12, 1988, to the Secretary of Agriculture. The regulations which issued establish rules of practice governing proceedings on petitions to amend, to be the exemplified from provisions of the Wheat and Wheat Family Products and Products of Wheat, Triticum, and Triticale Generalizing Order, which was issued May 12, 1988, and published May 18, 1988, at 53 FR 2200. The statutory authority for such proceedings is set forth in the Act at section 2200(a) of the Act at 5 U.S.C. 2200.

It has been determined that under the administrative procedure act, 5 U.S.C. 552, it is impractical and unnecessary to effect any change in the public procedure. It is the intention of the Service to issue rules of practice until 30 days after publication in the Federal Register by the Service that (1) No substantive rule or change of rule is involved, and (2) These procedures are performed directly after issuing.

The Service is issuing these regulations to establish rules of practice governing proceedings on petitions to amend, to be the exemplified from provisions of the Wheat and Wheat Family Products and Products of Wheat, Triticum, and Triticale Generalizing Order, which was issued May 12, 1988, and published May 18, 1988, at 53 FR 2200. The regulations which issued are authorized by section 2200 of the Wheat and Wheat Family Products and Products of Wheat, Triticum, and Triticale Act of 1987, 5 U.S.C. 2200. The regulations which issued establish rules of practice governing proceedings on petitions to amend, to be the exemplified from provisions of the Wheat and Wheat Family Products and Products of Wheat, Triticum, and Triticale Generalizing Order, which was issued May 12, 1988, and published May 18, 1988, at 53 FR 2200. The regulations which issued are authorized by section 2200 of the Wheat and Wheat Family Products and Products of Wheat, Triticum, and Triticale Act of 1987, 5 U.S.C. 2200.

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Vol. 45, No. 225

Wednesday, November 19, 1980

CFR PARTS AFFECTED DURING NOVEMBER

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
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DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/FSQS		DOT/FAA	USDA/FSQS
DOT/FHWA	USDA/REA		DOT/FHWA	USDA/REA
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/NHTSA	LABOR		DOT/NHTSA	LABOR
DOT/RSPA	HHS/FDA		DOT/RSPA	HHS/FDA
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of September 2, 1980, documents from the Animal and Plant Health Inspection Service, Department of Agriculture, will no longer be assigned to the Tuesday/Friday publication schedule.

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

ENVIRONMENTAL PROTECTION AGENCY

- 33290** 5-19-80 / Consolidated Permit Regulations
- 33066** 5-19-80 / Hazardous Waste Management System: General
- 72035** 10-30-80 / Hazardous waste; identification and listing chromium
- 72039** 10-30-80 / Hazardous waste; interim status standards for owners and operators of treatment, storage, and disposal facilities; closure plan preparation
- 33084** 5-19-80 / Hazardous Waste Management System: Identification and listing of hazardous waste
- 72024** 10-30-80 / Hazardous waste management system; general and identification and listing of hazardous waste; definition of "transport vehicle" and "vessel"
- 33140** 5-19-80 / Standards for generators of hazardous waste
- 33150** 5-19-80 / Standards for transporters of hazardous waste

INTERIOR DEPARTMENT

Fish and Wildlife Service—

- 69360** 10-20-80 / Endangered and threatened wildlife and plants; determination of *Hudsonia montana* (mountain golden heather) be a threatened species with critical habitat

TRANSPORTATION DEPARTMENT

Federal Highway Administration and Urban Mass Transportation Administration—

- 69390** 10-20-80 / Interstate system; withdrawal of nonessential highway routes and use of funds for substitute mass transit projects

Deadlines for Comments on Proposed Rules for the Week of November 23 through November 29, 1980

AGRICULTURE DEPARTMENT

Agriculture Marketing Service—

- 74491** 11-10-80 / License fees, increase; comments by 11-25-80

- 71198** 10-27-80 / Milk marketing order, Southwest Idaho—Eastern Oregon area; revised decision and opportunity to file exceptions; comments by 11-26-80

Foreign Agricultural Service—

- 70873** 10-27-80 / Italian-type cheese loaves; import quotas; comments by 11-26-80

CIVIL AERONAUTICS BOARD

- 63509** 9-25-80 / Charters; use of insurance policies to satisfy financial security requirements and use of letter of credit as an arrangement for protecting charter passengers' payments; comments by 11-24-80

COMMODITY FUTURES TRADING COMMISSION

- 57141** 8-27-80 / Large trader reporting to exchanges and reporting open positions; comments by 11-25-80

DEFENSE DEPARTMENT

Army Department—

- 71373** 10-28-80 / Privacy Act records; exemption rules; comments by 11-28-80

ENERGY DEPARTMENT

Conservation and Solar Energy Office—

- 66960** 10-8-80 / Residential Conservation Service Program; comments by 11-24-80

Federal Energy Regulatory Commission—

- 71587** 10-29-80 / Ceiling prices; high-cost gas produced from tight formations; comments by 11-24-80 (3 documents)
- 71589** 11-3-80 / High cost gas produced from tight formations, ceiling prices; designation of Arkadelphia Formation, La.; comments by 11-28-80
- 72687** 11-3-80 / High cost gas produced from tight formations, ceiling prices; designation of Arkadelphia Formation, La.; comments by 11-28-80
- 72199** 10-31-80 / Procedures for jurisdictional agencies to recommend designation of certain natural gas production areas as tight formations; comments by 11-26-80
- Office of the Secretary—
- 66970** 10-8-80 / Energy Auditor Training and Certification Grants; comments by 11-24-80

ENVIRONMENTAL PROTECTION AGENCY

- 71382** 10-28-80 / District of Columbia State Implementation Plan; revision; comments by 11-28-80
- 68693** 10-16-80 / Hazardous Waste Management Program; Oregon's application for interim authorization, Phase I; comments by 11-24-80
- 68694** 10-16-80 / Hazardous Waste Management Plan; Texas; submission for approval of Interim Authorization Plan, Phase I; comments by 11-25-80
- 71379** 10-28-80 / Michigan; ozone control strategy and transportation control plans; comments by 11-28-80
- 72215** 10-31-80 / National ambient air quality standards for carbon monoxide; comments period extended to 11-24-80 [See also 45 FR 55066, 8-18-80]
- 70917** 10-27-80 / North Carolina air quality designation areas (2 documents); comments by 11-26-80
- 63006** 9-23-80 / Premanufacture notification requirements and review procedures; clarification of importer reporting responsibilities; comments by 11-24-80
- 70513** 10-24-80 / Revision to Rhode Island State Implementation Plan; comments by 11-24-80

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

- 64213** 9-29-80 / Age discrimination in employment; comments by 11-28-80

FEDERAL COMMUNICATIONS COMMISSION

- 56116** 8-22-80 / Amendment of broadcast equal employment opportunity rules and FCC form 395; reply comments extended to 11-24-80
- 72719** 11-3-80 / Direct broadcasting satellites; satellite-to-home television transmission; comments by 11-28-80
- 69496** 10-21-80 / FM broadcast stations in Farwell and Morton, Tex.; proposed changes in table of assignments; comments by 11-28-80
- 63302** 9-24-80 / FM broadcast station in Hudson, Mich.; proposed changes in table of assignments; reply comments by 11-28-80
- 62517** 9-19-80 / FM broadcast station in Roy and Clearfield, Utah; proposed changes in table of assignments; reply comments by 11-28-80
- 61649** 9-17-80 / FM broadcast station in Show Low, Ariz.; proposed changes in table of assignment; comments by 11-7-80, reply comments by 11-28-80
- 58150** 9-2-80 / 9 kHz channel spacing for AM broadcasting; reply comments by 11-24-80
- 67399** 10-10-80 / Radio broadcast stations (FM) in Louisiana, changes in table of assignment; comments by 11-28-80
- 67400** 10-10-80 / TV broadcast stations in Indiana, changes in table of assignments; comments by 11-28-80

FEDERAL EMERGENCY MANAGEMENT AGENCY

- 63854** 9-26-80 / Collection of claims under the Federal Claims Collection Act of 1966; comments by 11-25-80

FEDERAL TRADE COMMISSION

- 64597** 9-30-80 / Farnam Cos. Inc. et al.; consent agreement with analysis to aid public comment; comments by 11-28-80

HEALTH AND HUMAN SERVICES DEPARTMENT

Disease Control Center—

- 63845** 9-26-80 / Grants for health education-risk reduction, programs to discourage children and adolescents from smoking; and alcohol use; comments by 11-25-80
- Food and Drug Administration—
- 63876** 9-26-80 / Anorectal products (OTC); reopening of record for camphor-containing drug products; comments by 11-25-80

- 63869** 9-26-80 / Camphorated oil and camphor-containing drug products for over-the-counter human use; comments by 11-25-80

- 63874** 9-26-80 / Cold, cough, allergy bronchodilator, and antiasthmatic products (OTC); reopening of record for camphor-containing drug products; comments by 11-25-80

- 63878** 9-26-80 / External analgesic drug products (OTC); reopening of record for camphor-containing products; comments by 11-25-80

- 70444** 10-24-80 / Food additive regulations; antioxidants and/or stabilizers; objections by 11-24-80

Health Care Financing Administration—

- 64008** 9-26-80 / Medicare, incentive reimbursement for outpatient dialysis and self-care dialysis training; comments by 11-25-80

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Federal Housing Commissioner—Office of the Assistant Secretary for Housing—

- 64211** 9-29-80 / Mortgagor and tenant relationship—mortgagor relationship to tenant activities; comments by 11-28-80

INTERIOR DEPARTMENT

Fish and Wildlife Service—

- 57680** 8-28-80 / Designation of critical habitat for the endangered Maryland darter fish; comments by 11-26-80

- 64113** 9-26-80 / Merriam's Montezuma quail, removal from List of Endangered and Threatened Wildlife; petition acceptance and status review; comments by 11-25-80

- 54111** 8-14-80 / Proposed threatened status for the leopard in Sub-Saharan Africa; comment period extended to 11-24-80 [See also 45 FR 19007, 3-24-80]

Indian Affairs Bureau—

- 70284** 10-23-80 / Land records and title documents; comments by 11-24-80

- 64472** 9-29-80 / Special education, Indian children; comments by 11-28-80

Surface Mining Reclamation and Enforcement Office—

- 70480** 10-24-80 / Abandoned Mine Lands Reclamation Program, comments by 11-24-80

[Originally published at 45 FR 63002, 9-23-80]

- 63002** 9-23-80 / State reclamation grants; filing of financial and performance reports, and identification of specific forms; comments by 11-24-80

INTERSTATE COMMERCE COMMISSION

- 70923** 10-27-80 / Motor carriers household goods transportation; revision of operational regulations; comments by 11-26-80

LABOR DEPARTMENT

Employment Standards Administration—

- 70479** 10-24-80 / Labor standards for further service contracts; comments period extended to 11-24-80

[See also 44 FR 77036, December 28, 1979]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

- 63506** 9-25-80 / Space transportation system; reimbursement for Spacelab service; comments by 11-24-80

NUCLEAR REGULATORY COMMISSION

- 67099** 10-9-80 / Plan to require licensees and applicants to document deviations from the standard review plan; comments by 11-24-80

- 67018** 10-8-80 / Standards for protection against radiation; comments by 11-24-80

PENSION BENEFIT GUARANTEE CORPORATION

- 72213 10-31-80 / Proposed agenda of priority regulations under the Multiemployer Pension Plan Amendments Act of 1980; comments by 11-28-80

POSTAL SERVICE

- 70287 10-23-80 / Locks on rural mailboxes; comments by 11-24-80

SMALL BUSINESS ADMINISTRATION

- 66807 10-8-80 / Revision to business loan and guarantee standards; comments by 11-24-80

STATE DEPARTMENT

Office of the Secretary—

- 73100 11-4-80 / Appointment of foreign service officers; comments by 11-27-80

TRANSPORTATION DEPARTMENT

Coast Guard—

- 67708 10-14-80 / Shipment of bulk liquid hazardous waste cargoes by water; comments by 11-28-80

Federal Aviation Administration—

- 64207 9-29-80 / Aircraft identification and registration; marking, size requirements; comments extended to 11-28-80
[Originally published at 45 FR 50810, 7-31-80]

- 72020 10-30-80 / Airworthiness Standards; aircraft and products design and procedural standards for type certificates, type certificate amendments, and supplemental type certificates; comments extended to 11-26-80

[Originally published at 45 FR 57688, 8-28-80]

- 72017 10-30-80 / FAA access to flight data recorder and cockpit voice recorder tapes; comments extended until 11-26-80
[Originally published at 45 FR 57694, 8-28-80]

- 59295 9-8-80 / Operations review program; reply comments by 11-23-80

- 70237 10-23-80 / Solicitation and leafletting procedures at Washington National and Dulles International Airports; comments by 11-24-80

- 64468 9-29-80 / Highway beautification; on premise signs; comments by 11-28-80

- 67107 10-9-80 / Parts and accessories necessary for safe operation; rear-vision mirrors; comments by 11-24-80
National Highway Traffic Safety Administration—

- 70922 10-27-80 / Motor vehicle safety standards; tire sizes and load factors; comment period extended to 11-28-80
[See also 45 FR 57466, 8-28-80]

- 67106 10-9-80 / Proposed decision to grant exemption from average fuel economy standards and to establish alternative standards; comments by 11-24-80

TREASURY DEPARTMENT

Comptroller of the Currency—

- 64196 9-29-80 / Adjustable rate mortgages; comments by 11-28-80

Customs Service—

- 70476 10-24-80 / Personal declarations and exemptions provisions; comments by 11-23-80

- 64211 9-29-80 / Proposed change in the field organization; extending the existing port limits of Sandusky, Ohio; comments by 11-28-80

Internal Revenue Service—

- 63879 9-26-80 / Employment taxes; interest-free adjustment for erroneous filing of FICA and RRTA returns; comments by 11-25-80

- 63297 9-24-80 / Interim rule for determining base prices for tier 2 and tier 3 oil; comments by 11-24-80

Deadlines for Comments On Proposed Rules for the Week of November 30 through December 6, 1980**AGRICULTURE DEPARTMENT**

Federal Crop Insurance Corporation—

- 64588 9-30-80 / Pea Crop Insurance regulations; comments by 12-1-80

Food and Nutrition Service—

- 65932 10-3-80 / Food Stamps; performance reporting and sanction/incentive system; comments by 12-3-80

Food Safety and Quality Service—

- 71364 10-28-80 / Polychlorinated biphenyls in food, feed, agricultural pesticide and fertilizer facilities; comments by 12-4-80

Rural Electrification Administration—

- 64596 9-30-80 / Revision of REA Bulletin 181-3; Accounting interpretations for rural electric borrowers; comments by 12-1-80

Soil Conservation Service—

- 65603 10-3-80 / Small Watershed Protection and Flood Prevention Act; intent to review regulations, policies and procedures; comments by 12-1-80

ALASKA NATURAL GAS TRANSPORTATION SYSTEM, OFFICE OF FEDERAL INSPECTOR

- 73081 11-4-80 / Reimbursement of costs from sponsoring companies; comments by 12-4-80

ARTS AND HUMANITIES NATIONAL FOUNDATION

- 65635 10-3-80 / Employers part-time career employment; comments by 11-30-80

CIVIL AERONAUTICS BOARD

- 71365 10-28-80 / Airlines filing tariffs stating prices as maximum amounts; comments by 12-1-80

- 73086 11-4-80 / Classification and exemption of air taxi operators; comments by 12-4-80

COMMERCE DEPARTMENT

Census Bureau—

- 65250 10-2-80 / Miscellaneous amendments to the Foreign Trade Statistics Regulations; comments by 12-1-80

[Corrected at 45 FR 68965, 10-17-80]

Maritime Administration—

- 66167 10-6-80 / Research and development grant and cooperative agreements regulations; comments by 12-5-80
National Oceanic and Atmospheric Administration—

- 64996 10-1-80 / Atlantic groundfish fishery; comments by 12-1-80

- 65641 10-3-80 / Foreign fishing in the Northern Pacific Ocean and Bering Sea; catch documentation and reporting procedures; comments by 12-2-80

DEFENSE DEPARTMENT

Army Department—

- 73103 11-4-80 / Privacy Act systems of records; amendment of exemption rule; comments by 12-4-80

Engineers Corps—

- 62732 9-19-80 / Amendment of regulations for controlling certain activities in waters of the United States; comments by 12-1-80

- 70511 10-24-80 / Florida navigation locks regulations; comments by 11-30-80

National Security Agency—

- 71373 10-28-80 / Privacy Act systems of records; exemption rules; comments by 12-1-80

EDUCATION DEPARTMENT

Office of the Secretary—

- 73514 11-5-80 / Minority Institution Science Improvement Program (MISIP); grant regulations; comments by 12-5-80

ENERGY DEPARTMENT

Federal Energy Regulatory Commission—

- 74505 11-10-80 / Natural Gas Policy Act of 1978; alternative fuel price ceilings for incremental pricing; comments by 12-5-80
- 73692 11-6-80 / Treatment under the incremental pricing program of natural gas used as boiler fuel to raise steam which forms an integral step in the manufacturing process for fertilizer, agricultural chemicals, animal feed, and food; comments extended to 12-1-80
- [Originally published at 45 FR 13122, 2-28-80]

ENVIRONMENTAL PROTECTION AGENCY

- 72708 11-3-80 / Acephate; proposed tolerance in or on mint hay; comments by 12-3-80
- 72221 10-31-80 / Air programs, Idaho; primary nonferrous smelter order to Bunker Hill Co.; comments by 12-1-80
- 72219 10-31-80 / Air quality implementation plan, Idaho; control of sulfur dioxide emissions from Bunker Hill Co. lead and zinc smelter; comments by 12-1-80
- 65630 10-3-80 / Air quality implementation plan, Missouri, approval, promulgation, and designation of areas; comments by 12-2-80
- 69271 10-20-80 / California, air quality; sulfur-dioxide nonattainment area boundaries for Kern County; comment period extended to 12-1-80
- [See also 45 FR 55231, 8-19-80 and 45 FR 60931, 9-15-80]
- 72217 10-31-80 / Consideration of Ohio Implementation Plan revision; comments by 12-1-80
- 73440 11-4-80 / Guidelines for development and implementation of State solid waste management plans; comments by 12-4-80
- 60929 9-15-80 / Implementation of the Uniform Relocation Assistance and Real Property Acquisition Policies Act; comments by 11-30-80
- 62851 9-22-80 / Importation of motor vehicles and motor vehicle engines; comments by 12-3-80
- 70917 10-27-80 / Michigan air quality implementation plan; comment period extended to 11-30-80
- [See also 45 FR 59329, 9-9-80]
- 70287 10-23-80 / Oklahoma; Submission for approval of interim authorization plan, Phase I, hazardous waste management plan; comments by 12-2-80
- 65633 10-3-80 / Pesticide use violations; procedures governing rescission of State primary enforcement responsibility; comments by 12-2-80
- 65633 10-3-80 / Pesticide use violations; rescission of States' primary enforcement responsibility; comments by 12-2-80
- 71364 10-28-80 / Polychlorinated biphenyls in food, feed, agricultural pesticide and fertilizer facilities; comments by 12-4-80
- 65262 10-2-80 / Receipt of revision to take, Great Basin Unified, Modoc, Imperial and San Bernardino Air Pollution Control Districts; comments by 12-1-80
- 72215 10-31-80 / Request for comments on deadline for remedying of conditionally approved portions of Ohio State Implementation plan; comments by 12-1-80
- 73520 11-5-80 / Revision of the Delaware State Implementation Plan; comments by 12-5-80
- 68403 10-15-80 / Rulemaking petition to require that generators and transporters of small quantities of hazardous waste comply with manifest, packaging, labeling and recordkeeping requirements; comments by 12-1-80

- 72709 11-3-80 / Solid waste disposal facilities and practices, criteria for classification; comments by 12-3-80
- 64856 9-30-80 / State implementation plans; approval of 1982 ozone and carbon monoxide plan revisions for areas needing an attainment date extension; comments by 12-1-80
- 71818 10-30-80 / State Solid Waste Management Plans, guidelines for development and implementation; comments by 12-1-80
- 73601 11-5-80 / Strychnine; preliminary notice of determination concluding the rebuttable presumption against registration of pesticide products; availability of position document; comments by 12-5-80
- 72232 10-31-80 / Water pollution; ink formulating; point source category effluent limitations guidelines; comments by 12-1-80
- 72232 10-31-80 / Water pollution; paint formulating; point source category effluent limitations guidelines; comments by 12-1-80

FEDERAL COMMUNICATIONS COMMISSION

- 37468 6-3-80 / Availability of additional FM frequencies and modification of procedures used in assigning such channels; reply comments by 12-1-80
- [See also 45 FR 17602, 3-19-80 and 45 FR 26390, 4-18-80]
- 63516 9-25-80 / Conversion of radiation patterns for AM Broadcast Stations; reply comments by 12-2-80
- 69499 10-21-80 / FM broadcast station in Alliance, Nebr.; proposed changes in tables of assignments; comments by 12-2-80
- 69502 10-21-80 / FM broadcast station in Hilton Head Island, S.C.; proposed changes in table of assignments; comments by 12-2-80
- 69501 10-21-80 / TV broadcast stations in Madisonville, Ownesboro and Princeton, Ky., proposed changes in tables of assignments; comments by 12-2-80
- 69497 10-21-80 / TV broadcast station in Rio Grande City, Tex.; proposed changes in table of assignments; comments by 12-2-80
- 64981 10-1-80 / TV broadcast station in Santa Barbara, Calif.; changes in table of assignments; reply comments by 12-5-80

FEDERAL HOME LOAN BANK BOARD

- 66798 10-7-80 / Graduated payment adjustable mortgage; comments by 12-1-80
- 66801 10-8-80 / Shared appreciation mortgage; comments by 12-1-80

FEDERAL TRADE COMMISSION

- 65255 10-2-80 / Darworth Co.; consent agreement with analysis to aid public comment; comments by 12-1-80
- 65252 10-2-80 / Murata Manufacturing Co., Ltd.; consent agreement with analysis to aid public comment; comments by 12-1-80
- [Corrected at 45 FR 67360, 10-10-80]

GENERAL SERVICES ADMINISTRATION

National Archives and Records Service—

- 64978 10-1-80 / Records management; stationery standards; comments by 12-1-80

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration—

- 65619 10-3-80 / Medical devices; labeling and restrictions to assure safe and effective use; comments by 12-2-80
- 71364 10-28-80 / Polychlorinated biphenyls in food, feed, agricultural pesticide and fertilizer facilities; comments by 12-4-80
- Health Care Financing Administration—
- 71821 10-30-80 / Medicaid program; deeming of income between spouses; comments by 12-1-80

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Office of the Secretary—

- 73272** 11-4-80 / Section 8 and Section 23 Housing Assistance Payments Program; amendment of fair market rent schedules for existing housing; comments by 12-3-80

Office of the Secretary—

- 65258** 10-2-80 / Siting of HUD-assisted project in locations with marginal or unacceptable air quality; comments by 12-1-80

INTERIOR DEPARTMENT

Fish and Wildlife Service—

- 58171** 9-2-80 / Endangered and threatened wildlife; review of three southeastern fishes; comments by 12-1-80

Heritage Conservation and Recreation Service—

- 66179** 10-6-80 / Energy conservation by recipients of Federal assistance; comments by 12-5-80

Indian Affairs Bureau—

- 72699** 11-3-80 / Accounting procedures, internal; Indian moneys, proceeds of labor and special deposits; comments by 12-3-80

Land Management Bureau—

- 68506** 10-15-80 / Grazing administration and trespass on public land; comments by 12-1-80

National Park Service—

- 73518** 11-5-80 / Restrictions on consumption of alcoholic beverages within Valley Forge National Historical Park; comments by 12-5-80

Surface Mining Reclamation and Enforcement Office—

- 74513** 11-10-80 / Kansas regulatory program, resubmission; comments by 11-26-80

- 71816** 10-30-80 / Surface coal mining reclamation operations, State or Federal programs; comments by 12-1-80

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development—

- 65258** 10-2-80 / Review of collection of civil claims; comments by 12-1-80

INTERSTATE COMMERCE COMMISSION

- 73106** 11-4-80 / Feeder railroad development program implementation; comments by 12-4-80

- 68696** 10-16-80 / Procedures to permit carriers to reroute traffic automatically for 30 days when necessary for reason beyond carriers control; comments by 12-1-80

- 67272** 10-9-80 / Public forum on interstate motor carrier study, Washington, D.C. (open), 11-25-80

JUSTICE DEPARTMENT

Drug Enforcement Administration—

- 64572** 9-30-80 / Exempt chemical preparation containing controlled substances; comments by 12-1-80

- 64572** 9-30-80 / Exempt chemical preparation containing controlled substances; comments by 12-1-80

MANAGEMENT AND BUDGET OFFICE

Federal Procurement Policy Office—

- 65640** 10-3-80 / Federal Acquisition regulations; safeguarding classified information in industry, contractor team arrangements, and defense production and research and development pools; comments by 12-3-80

LABOR DEPARTMENT

Labor Management Standards Enforcement Office—

- 65926** 10-3-80 / Labor organizations; election enforcement procedures; comments by 12-2-80

PENSION BENEFIT GUARANTY CORPORATION

- 65259** 10-2-80 / Allocation of residual assets; comments by 12-1-80

PERSONNEL MANAGEMENT OFFICE

- 65603** 10-3-80 / Political participation by Federal employees in local elections; partial exemption from Hatch Act restrictions for residents of New Carrollton, Md.; comments by 12-2-80

POSTAL SERVICE

- 73518** 11-5-80 / Domestic Mail Manual; definition of the terms "newspaper" and "periodical publication"; comments by 12-4-80

- 73103** 11-4-80 / International express mail rates to Argentina; comments by 12-4-80

SECURITIES AND EXCHANGE COMMISSION

- 71776** 10-30-80 / Debt securities, establishing ceiling limitations on the amount; comments by 11-30-80

- 74505** 11-10-80 / Financial and Operational Combined Uniform Single ("FOCUS") Report; revision of form and filing requirements; comment period extended to 11-30-80 [See also 45 FR 62092 9-18-80]

- 71811** 10-30-80 / Report of sales of securities; comments by 12-5-80

- 72685** 11-3-80 / Securities resales; amount limitation, manner of sale and notice requirements; lessening of restrictions; comments by 12-1-80

SMALL BUSINESS ADMINISTRATION

- 66174** 10-6-80 / Proposed business loan policy; comments by 12-5-80

TRANSPORTATION DEPARTMENT

Federal Highway Administration—

- 74940** 11-13-80 / Bikeway design and construction criteria; comments extended from 11-3-80 to 12-3-80 [See also 45 FR 51720, 8-4-80]

- 51625** 8-4-80 / Consideration of revision of regulations for transportation of migrant workers; comments by 12-2-80

National Highway Traffic Safety Administration—

- 70282** 10-23-80 / Highway safety innovative project grants program; comments by 12-1-80

Research and Special Programs Administration—

- 69272** 10-20-80 / Hazardous materials; withdrawal of certain Bureau of Explosives authority delegations and miscellaneous amendments; comments by 12-5-80

Urban Mass Transportation Administration—

- 56742** 8-25-80 / Section 5 operation assistance regulations, comments by 12-1-80

TREASURY DEPARTMENT

Alcohol, Tobacco, and Firearms Bureau—

- 69249** 10-20-80 / Distilled Spirits Tax Revision Act of 1979, implementation; comment period extended to 12-1-80 [See also 44 FR 71612, 12-11-79 and 45 FR 54087, 8-14-80]

Customs Service—

- 64601** 9-30-80 / Importation of motor vehicles and motor vehicle engines under the Clean Air Act; comments by 12-3-80

Next Week's Meetings**ARTS AND HUMANITIES, NATIONAL FOUNDATION**

- 71868** 10-30-80 / Humanities Panel, Washington, D.C. (closed), 11-24-80

- 73564** 11-5-80 / Visual Arts (Craft Exhibition), Wash., D.C., (closed), 11-24 and 11-25-80

COMMERCE DEPARTMENT

Census Bureau—

- 71637** 10-29-80 / Census Advisory Committee of the American Marketing Association, Suitland, Md. (open), 11-25-80

National Oceanic and Atmospheric Administration—

- 72242** 10-31-80 / Caribbean Fishery Management Council, Scientific and Statistical Committee, Hato Rey, Puerto Rico (open), 11-25-80

- 73529** 11-5-80 / New England Fishery Management Council's Sea Herring Fishery Subpanel, (open) Saugus, Mass., 11-25-80

- 74003** 11-7-80 / North Pacific Fishery Management Council's Inter-Council Salmon Coordination Subcommittees, Portland, Oreg. (open), 11-24-80
Office of the Secretary—
- 71636** 10-29-80 / National Laboratory Accreditation Criteria Committee for freshly mixed field concrete, Washington, D.C. (open), 11-25-80
- DEFENSE DEPARTMENT**
Air Force Department—
- 74016** 11-7-80 / USAF Scientific Advisory Board, Wright-Patterson Air Force Base, Ohio (closed), 11-24-80
Navy Department—
- 73119** 11-4-80 / Navy Resale System Advisory Committee, New York, N.Y. (partially closed), 11-24-80
Office of the Secretary—
- 62177** 9-18-80 / DOD Wages Committee, Washington, D.C. (closed), 11-25-80
- 71412** 10-28-80 / National Defense University Panel of the Board of Visitors for National Defense University and Defense Intelligence School, Washington, D.C. (open), 11-25-80
- 74960** 11-13-80 / National Defense University Panel of the Board of Visitors for National Defense University and Defense Intelligence School, Fort Lesley J. McNair, Washington, D.C., (open), 11-25 through 12-2-80
- ECONOMIC OPPORTUNITY NATIONAL ADVISORY COUNCIL**
- 73121** 11-4-80 / Meetings, Berkeley, Calif. (open), 11-24 and 11-25-80
- EDUCATION DEPARTMENT**
- 71643** 10-29-80 / National Advisory Committee on Black Higher Education and Black Colleges and Universities, Washington, D.C. (open), 11-24 and 11-25-80
- 73120** 11-4-80 / Vocational Education National Advisory Council, Washington, D.C. (open), 11-24-80
- ENVIRONMENTAL PROTECTION AGENCY**
- 74039** 11-7-80 / Science Advisory Board, Environmental Health Committee, Washington, D.C. (open), 11-25-80
- GOVERNMENT PRINTING OFFICE**
- 72797** 11-3-80 / Micropublishing Advisory council to the Public Printer, Washington D.C. (open), 11-24-80
- HEALTH AND HUMAN SERVICES DEPARTMENT**
Food and Drug Administration—
- 70573** 10-24-80 / Ophthalmic Devices Section of the Ophthalmic, Ear, Nose and Throat and Dental Devices Panel, Washington, D.C. (open), 11-24 and 11-25-80
Health Services Administration—
- 68464** 10-15-80 / Board of Scientific Counselors, NICHD, Bethesda, Md. (closed), 11-24-80
National Institutes of Health—
- 72799** 11-3-80 / Heart, Lung, and Blood Research Review Committees A and B, Bethesda, Md. (partially open), 12-5 and 12-6-80 (2 documents)
- 74263** 11-7-80 / Institutional Biosafety Committee Chairpersons, Washington, D.C. (open), 11-24 and 11-25-80
- 68467** 10-15-80 / Minority Access to Research Careers Review Committee, Bethesda, Md. (open and closed), 11-24 and 11-25-80
- 68468** 10-15-80 / National Heart, Lung, and Blood Advisory Council, Bethesda, Md., (open and closed), 11-24 and 11-25-80
- NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**
- 73563** 11-5-80 / NASA Advisory Council, Aeronautics Advisory Committee (AAC), Moffett Field, Calif., (open) 11-24 and 11-25-80

NUCLEAR REGULATORY COMMISSION

- 75030** 11-13-80 / Advisory Committee on Reactor Safeguards, Three Mile Island Nuclear Plant, Unit No. 1, Subcommittee, Washington, D.C., (open), 11-28 and 11-29-80

RAILROAD RETIREMENT BOARD

- 69078** 10-17-80 / Actuarial Advisory Committee, Chicago, Ill., (open), 11-24-80

TRANSPORTATION DEPARTMENT

Coast Guard—

- 62949** 9-22-80 / Coast Guard Academy Advisory Committee, New London, Conn., (open), 11-24 and 11-25-80
[Rescheduled at 45 FR, 67818; 10-14-80]

Federal Highway Administration—

- 67272** 10-9-80 / Public forum on interstate motor carrier study, Washington, D.C. (open), 11-25-80

VETERANS ADMINISTRATION

- 59470** 9-9-80 / Wage Committee, Washington, D.C., (closed), 11-25-80

Next Week's Public Hearings**CIVIL AERONAUTICS BOARD**

- 70950** 10-27-80 / Continental-Western Merger Case, Washington, D.C., 11-24-80

ENERGY DEPARTMENT

Conservation and Solar Energy Office—

- 73684** 11-6-80 / Electric and hybrid vehicle research, development, and demonstration program; equivalent petroleum-based fuel economy calculation, Washington, D.C., 11-25-80

FEDERAL ENERGY REGULATORY COMMISSION—

- 74505** 11-10-80 / Natural gas; incremental pricing; calculation of alternative fuel price ceilings, Washington, D.C., 11-24-80

ENVIRONMENTAL PROTECTION AGENCY

- 71538** 10-28-80 / Air pollution; standards of performance for new stationary sources; publication rotogravure printing, Research Triangle Park, N.C., 11-25-80
- 70313** 10-23-80 / Clean Air Act program grant to the State of Oregon, Portland, Oreg., 11-24-80
- 70287** 10-23-80 / Oklahoma: Submission for approval of interim authorization plan, Phase I, hazardous waste management plan, Oklahoma City, Okla., 11-25-80

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office—

- 74513** 11-10-80 / Resubmitted Kansas permanent regulatory program, Pittsburgh, Kans., 11-24-80

INTERNATIONAL TRADE COMMISSION

- 66925** 10-8-80 / Certain inclined-field acceleration tubes and components, Washington, D.C., 11-25-80
[Originally scheduled for 10-30-80 see 45 FR 63389, 9-24-80]

LABOR DEPARTMENT

Pension and Welfare Benefit Programs Office—

- 74513** 11-10-80 / Single employer plans; individuals benefit reporting and recordkeeping; Washington, D.C., 11-25-80

TREASURY DEPARTMENT

Office of the Secretary—

- 68686** 10-16-80 / Proposed regulations to set standards for opinions by practitioners before the Internal Revenue Service used in promotion of tax shelters, Wash., D.C., 11-25-80

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws. A complete cumulative listing through Public Law 96-483 was published in the Reader Aids section of the issue of Wednesday, November 5, 1980.

Last Current Listing October 24, 1980

Documents Relating to Federal Grant Programs

This is a list of documents relating to Federal grant programs which were published in the Federal Register during the previous week.

Rules Going Into Effect

- 74928 11-13-80 / CSA—State agency assistance funded under Section 231 of the Economic Opportunity Act; policy statement revision and changes in administrative requirements; effective 12-15-80
- 74900 11-13-80 / Commerce/EDA—Public Works and Development Facilities Programs; clarifying amendments concerning certain types of programs which may be funded; effective 11-13-80
- 74680 11-10-80 / Interior/OSM—Mining and mineral resources research institutes and mineral research projects, effective 12-10-80
- 75610 11-14-80 / HUD/NVACP—Neighborhood self-help development program requirements; effective 1-15-81
- 75568 11-14-80 / OPM—Nondiscrimination on the basis of handicap in programs and activities receiving or benefitting from Federal financial assistance; effective 12-15-80

Deadlines for Comments on Proposed Rules

- 74940 11-13-80 / HUD/CPGD—Community Development Block grants; community development assistance programs; clarification of HUD's policies governing program; comments by 1-12-81
- 66463 10-7-80 / USDA/FNS—Food Stamp program; demonstration, research, and evaluation projects; comments by 11-14-80

[Corrected at 45 FR 75218, 11-14-80]

Applications Deadlines

- 75301 11-14-80 / DOE/SOLAR—Loan guarantees for Alcohol fuels and biomass energy projects; apply by 12-31-80
- 74961 11-13-80 / ED/Office of Postsecondary Education—Strengthening Developing Institutions Program; Apply by 1-19-81
- 74778 11-12-80 / HHS/HRA—Expanded Function Dental Auxiliary Training; apply by 11-28-80
- 74778 11-12-80 / HHS/HRA—Physician Assistant Training Programs; apply by 12-8-80
- 74777 11-12-80 / HHS/HRA—Predoctoral Training in Family Medicine; apply by 11-21-80
- 74779 11-12-80 / HHS/HRA—Residency Training in General Practice of Dentistry; apply by 12-12-80

Application Deadlines

- 74612 11-10-80 / Harry S. Truman Scholarship Foundation; nominations from institutions of higher education for Truman Scholarships; apply by 12-1-80

Meetings

- 74568 11-10-80 / HHS/HDSO—Child Abuse and Neglect Advisory Board, Washington, D.C. (open), 11-13-80

- 74597 11-10-80 / NFAH—Music Panel (Chorus Section), Washington, D.C. (partially closed), 11-5 through 11-9-80
- 75369 11-14-80 / NFAH—Music Panel (Orchestra Section), Washington, D.C. (partially open), 11-17 through 11-20-80
- 75369 11-14-80 / NFAH—Humanities Panel, Washington, D.C. (closed), 12-1 through 12-5, 12-8, 12-9, 12-11, 12-12, 12-16 and 12-18-80
- 75416 11-14-80 / NSF—National Science Board, Washington, D.C. (partially open), 11-20 and 11-21-80

Meetings

- 74525 11-10-80 / USDA/SEA—Committee of Nine, New Orleans, La. (open), 12-4-80

Other Items of Interest

- 75045 11-13-80 / DOT/FHA—Public Service Archeology Grant Program Academic Year 1981-82 at the University of South Carolina
- 75144 11-13-80 / DOT/UMTA—Urbanized Area Formula Apportionments for Fiscal Year 1981
- 75564 11-14-80 / ED—Education amendments of 1980; intent to develop regulations
- 74558 11-10-80 / ED—Education Appeal Board; prehearing conference on appeal of State of Arizona contesting audit determinations, Washington, D.C., 12-10 and 12-11-80
- 74598 11-10-80 / OMB—Agency forms under review



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